

H.R. 4910 and H.R. 5123

LEGISLATIVE HEARING

BEFORE THE
SUBCOMMITTEE ON WATER AND POWER
OF THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS
SECOND SESSION

July 25, 2002

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LEGISLATIVE HEARING ON H.R. 4910, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO REVISE A REPAYMENT CONTRACT WITH THE TOM GREEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO.1, SAN ANGELO PROJECT, TEXAS, AND FOR OTHER PURPOSES; AND H.R. 5123, TO ADDRESS CERTAIN MATTERS RELATED TO COLORADO RIVER WATER MANAGEMENT AND THE SALTON SEA BY PROVIDING FUNDING FOR HABITAT ENHANCEMENT PROJECTS AT THE SALTON SEA, AND FOR OTHER PURPOSES.

**Thursday, July 25, 2002
U.S. House of Representatives
Subcommittee on Water and Power
Committee on Resources
Washington, DC**

The Subcommittee met, pursuant to call, at 10:05 a.m., in room 1334 Longworth House Office Building, Hon. Ken Calvert [Chairman of the Subcommittee] presiding.

Mr. CALVERT. The Subcommittee on Water and Power will come to order.

The Committee is meeting today to hear testimony on two bills, H.R. 4910, to authorize the Secretary of Interior to revise a repayment contract with Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes.

We are also meeting on H.R. 5123, to address certain matters related to the Colorado River management and the Salton Sea, by providing funding for habitat enhancement projects at the Salton Sea and for other purposes.

Under Rule 4(b) of the Committee rules, any oral opening statements at hearings are limited to the Chairman and the Ranking Member. If other members have statements they can be included in the hearing record under unanimous consent.

Today we will hear testimony in two unrelated bills, first, H.R. 4910 to authorize the Secretary of Interior to revise a repayment contract with an irrigation district in Texas.

With that, I am pleased to recognize our colleague and good friend, Mr. Stenholm from Texas.

**STATEMENT OF CHARLES W. STENHOLM, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS**

Mr. STENHOLM. Thank you, Mr. Chairman. I want to extend my appreciation to you and members of this Committee for scheduling this hearing and considering H.R. 4910.

Tom Green County Water Control and Improvement District, Number 1, has an outstanding loan with the Department of Interior for the construction of an irrigation canal. The remaining balance is approximately \$2.4 million.

The farmers in the district have made diligent efforts to make timely payments on the contract. They have paid 38 percent, about one and a half million of the original debt owed to the Department of Interior, despite the fact that they have yet to receive a fair return on their investment.

In West Texas, there is virtually nothing of a higher daily concern than the availability of water. In recent years Texas has been devastated by drought. As a result, the farmers have received a full year's allocation of irrigation water only 50 percent of the time.

Moreover, for the other 50 percent of the time they received either less than the annual allocation or no irrigation water at all. Payment on the debt has never been forgiven, even in years when the district received no water.

Deferments have been granted seven times, however, those payments still have to be made. They are added to the remaining balance and the payments continue to get higher annually because the original contract end date does not change.

To make matters worse, the concrete lining replaced in the canal in 1960 has started to deteriorate after 42 years and repairs are necessary. These repairs are very expensive. Farmers simply cannot sustain paying the cost of the annual operation and maintenance costs to the irrigation district, the Bureau of Reclamation annual payment and extensive repair costs when little or no water is available.

The Bureau of Reclamation has stated that the increased payments as a result of continued deferments due to the drought conditions are making it increasingly difficult on the farmers' ability to pay the annual payments.

The increased annual payments place additional financial burdens on the district and increasing these payments further will only lead to future difficulty that the Bureau of Reclamation cannot remedy.

Only Congress can remedy the long-term problem, which is why I have introduced H.R. 4910 to get this loan restructured. This legislation would allow the Secretary of Interior to revise the repayment contract, number 14-06-500-369, by extending the period authorized for repayment of reimbursable construction costs of the canal from 40 to 50 years.

I think it is important to note that this bill will have no long-term impacts to the Federal budget other than some, perhaps, additional interest costs. The Federal Government will receive payment on this loan, but with this much-needed extension, it will be 10 years later than anticipated.

On behalf of my farmers in my district, I appreciate your time and attention to this legislation. I understand the Subcommittee will be marking up H.R. 4910 following this legislative hearing.

I welcome any and all suggestions to improve the bill in order to better assist the irrigation district. With that, I would then to my friend and complainant, Clayton Friend, who is Tom Green County Commissioner Precinct One and District Manager of the Water District for his additional comments regarding the proposal to us today.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Stenholm follows:]

**Statement of the Hon. Charles W. Stenholm, a Representative in Congress
from the State of Texas**

Thank you Mr. Chairman, and I thank the members of the committee for allowing me to come and be here today.

The Tom Green County Water Control & Improvement District No. 1 has an outstanding loan with the Department of Interior for the construction of an irrigation canal. The remaining balance is approximately \$2.4 million. The farmers in the District have made diligent efforts to make timely payments on the contract. They have paid 38 percent (about \$1.5 million) of the original debt owed to the Department of Interior despite the fact that they have yet to receive a fair return on their investment.

In West Texas, there is virtually nothing of a higher daily concern than the availability of water. In recent years, Texas has been devastated by drought. As a result, the farmers have received a full year's allocation of irrigation water only 50 percent of the time. Moreover, for the other 50 percent of the time, they received either less than the annual allocation or no irrigation water at all.

Payment on the debt has never been forgiven, even in years when the District received no water. Deferments have been granted seven times; however, those payments still have to be made. They are added to the remaining balance and the payments continue to get higher annually because the original contract end date does not change.

To make matters worse, the concrete lining placed in the canal in 1960 has started to deteriorate after forty-two years and repairs are necessary. These repairs are very expensive. Farmers simply cannot sustain paying the costs of the annual operation and maintenance costs due to the irrigation district, the Bureau of Reclamation annual payment, and extensive repair costs when little or no water is available.

The Bureau of Reclamation has stated that the increased payments, as a result of continued deferments due to the drought conditions, are making it increasingly difficult on the farmers' ability to repay the annual payments. The increased annual payments place additional financial burdens on the District and increasing these payments further will only lead to future difficulty that the Bureau of Reclamation cannot remedy. Only Congress can remedy the long-term problem, which is why I have introduced H.R. 4910 to get this loan restructured.

This legislation would allow the Secretary of Interior to revise the repayment contract (No. 14-06-500-369) by extending the period authorized for repayment of reimbursable construction costs of the canal from 40 to 50 years.

[I think it is important to note that this bill will have no long-term impacts to the federal budget. The federal government will receive payment on this loan, but with this much needed extension, it will be ten years later than anticipated.]

On behalf of my farmers in my district, I appreciate your time and attention to this legislation. I understand that the Subcommittee will be marking-up H.R. 4910 following this legislative hearing, and I welcome any and all suggestions to improve the bill in order to better assist the irrigation district.

Thank you.

Mr. CALVERT. Thank you. The gentleman is recognized.

STATEMENT OF CLAYTON FRIEND, DISTRICT MANAGER, TOM GREEN COUNTY WATER CONTROL IMPROVEMENT DISTRICT No. 1

Mr. FRIEND. Thank you, Mr. Chairman, and thank you Committee members for allowing us, as Congress Stenholm has said, allowing us to be here today to speak with you.

As has been stated, we do have a contract with the Bureau of Reclamation, a repayment plan and it was set out for 40 years. We have made diligent efforts to make those payments and due to living in West Texas where rain is scarce and crop production is low, we have made 38 percent of our payment, but because of low water inflow and many times no water, we have been placed into the situation of asking the Bureau for a deferment seven times.

The Bureau is an excellent working partner in this with us and we have had excellent success in receiving suggestions and working with our personnel. Those deferments have been granted. The only problem with that is the end date does not change and therefore, each year the deferment is granted, as Congress Stenholm has said, the payment gets larger each year. It increases the burden on our farmers.

Our district, because we have had no water from the project, Twin Buttes Reservoir, we made a contract with the city of San Angelo, Texas and we are currently taking their reclaimed waste water to try to help them out and to help our district out. They installed a pipeline to our canal, so we are farming our land using the city's reclaimed wastewater. It was a good situation for them and it was a good situation for us because it gives us approximately eight inches of water per acre in our irrigation district.

Typically, when we have a full allocation of water under our contract, we can irrigate with 24 inches, as you see in the report. In the years that we have had 24 inches, that is a full annual allocation.

So we have eight inches, and the problem with that is the city generates water every day, so we must take the water on a continual basis. We have to take it during the winter months and thereby it reduces their storage capabilities but it reduces the amount available to the farmer during the growing season, which is typically the spring and summer months. So, we have a little water and we try to use it as best we can.

We have tried to maintain our canal. As Congressman Stenholm said, we have deteriorating problems with the canal because it was installed in 1960 or '62 and after 40 years it is starting to deteriorate. So, we have had to use some of our local money to do repairs on the canal. So, it seems like our problems are mounting.

We appreciate your help. We also appreciate your amending the bill here today by eliminating Section 2. That was inadvertently placed in there. The current lake level at Twin Buttes Reservoir, when I submitted to you my written statement, was 9100 acre feet the day before yesterday. It has reduced to 8400, so it is going down daily and under our water crediting system, we don't get any water to irrigation until it gets above 50,000 acre feet. As you well know, inflows of 40,000 acre-feet into a reservoir are pretty signifi-

cant. So we would have to have that and anything above that before we would be granted any inflows.

Again, we ask for your support on this. If you have any questions with regard to any problems or any situations within the district, I will be glad to answer them.

Thank you very much.

[The prepared statement of Mr. Friend follows:]

Statement of Clayton Friend, Tom Green County Commissioner Precinct 1, and District Manager, Tom Green County Water Control & Improvement District 1

Thank you Mr. Chairman and I thank the members of the committee for allowing me to come and be here today and present to you the problems facing the Tom Green County Water Control & Improvement District 1 which I will refer to in the remainder of my statement as the "District".

History:

The San Angelo Project was constructed with oversight by the Bureau of Reclamation and completed around 1962. The project included the Twin Buttes Reservoir which was to provide municipal, industrial and recreational water for the City of San Angelo, Texas with storage capacity of approximately 180,000 acre feet of water. In addition, the San Angelo Project was to provide irrigation water to the District by using a 65-mile concrete lined irrigation canal system that was constructed with Bureau of Reclamation oversight during the same period. This canal system was to provide access to the water stored in the Twin Buttes Reservoir to irrigate 10,000 acres of farmland. Ten years passed before there was enough water in the Reservoir to release any water into the canal system. In 1972 the first irrigation releases were made to the District through the canal system. Both the City of San Angelo and the District have repayment contracts with the Bureau of Reclamation, Department of the Interior for their portion of the costs of the San Angelo Project.

The District's outstanding loan with the Department of Interior for the construction of the irrigation canal is Contract No. 14-06-500-369, San Angelo Project. The original amount of the District's loan was \$4,000,000. The District has paid \$1,506,132, and the remaining balance is \$2,487,707.

Problems:

The farmers in the District have made diligent efforts to make timely payments on the contract. They have, in fact, paid 38% of the original debt owed to the Department of the Interior. One of the problems is that the farmers haven't received a fair return on their investment. The farmers have received a full year's allocation of irrigation water, 24 inches per acre, only 50% of the time since 1962 when the canal was completed. However, for the other 50% of the time the farmers received either less than the annual 24 inches per acre of irrigation water or no irrigation water at all. Payment on the debt has never been forgiven, even in years when the District received no water. Deferments have been granted 7 times due to drought conditions. Those payments, however still have to be made. They are added to the remaining balance and the payments continue to get higher annually because the original contract end date does not change.

The last time the farmers have had any water available from Twin Buttes Reservoir was in 1998 when they received 1 ° inches of water per acre. The last time they had the full allocation of 24 inches per acre was in 1997. Farmers cannot exist paying the operation and maintenance costs of the District and the repayment to the Bureau of Reclamation when there is little or no water available.

The following chart represents the amounts of irrigation water available from Twin Buttes reservoir since completion of the canal system:

1962 – 0 inches	1973 – 24 inches	1984 – 0 inches	1995 – 10 inches
1963 – 0 inches	1974 – 24 inches	1985 – 0 inches	1996 – 4 inches
1964 – 0 inches	1975 – 24 inches	1986 – 0 inches	1997 – 24 inches
1965 – 0 inches	1976 – 24 inches	1987 – 24 inches	1998 – 1.5 inches
1966 – 0 inches	1977 – 24 inches	1988 – 24 inches	1999 – 0 inches
1967 – 0 inches	1978 – 24 inches	1989 – 24 inches	2000 – 0 inches
1968 – 0 inches	1979 – 24 inches	1990 – 24 inches	2001 – 0 inches
1969 – 0 inches	1980 – 24 inches	1991 – 24 inches	2002 – 0 inches
1970 – 0 inches	1981 – 24 inches	1992 – 24 inches	
1971 – 0 inches	1982 – 24 inches	1993 – 24 inches	
1972 – 24 inches	1983 – 4.5 inches	1994 – 24 inches	

As indicated in the chart above, the District has received little or no water in 21 of 40 years.

Current lake level and water credit procedures:

At the present time, Twin Buttes Reservoir only has 5% of water in storage. This amounts to approximately 9100 acre feet. There is a water accounting system that credits water to the District and to the City of San Angelo. The District gets credit for all of the water above 50,000 acre feet of stored water. With the current lake level at 9100 acre feet, the lake would have to have inflow of over 40,000 acre feet before the District gets even one drop of water in storage credits. To irrigate 10,000 acres, it takes about 867 acre feet to equal one inch of water per acre of farmland. Evaporation also must be considered which sometimes can amount to 15% to 20%, so additional water must be available to allow for evaporation. As has been stated previously in this report, a normal irrigating season with a full allocation of irrigation water (24 inches per acre) there must be approximately 22,000 acre feet available for 10,000 acres of farmland.

Additional Problems:

There has been an additional problem facing the farmers in the District. The concrete lining that was placed in the canal system in the early 60's has started to deteriorate after 40 years and now repairs are necessary. The canal lining was designed without any reinforcement steel of any kind and has progressively become worse over time. To repair the canal lining places additional burdens on the farmers because the repairs are very expensive. The farmers in the District have to pay the annual payment for the construction of the canal plus the operation and maintenance costs for the operation of the District. If you have to add the expensive repair costs that need to be done, it makes it virtually impossible for the farmers to make a profit when there is no water available from Twin Buttes Reservoir. The District is, however, trying to repair parts of the canal system that need the most attention. With Bureau of Reclamation approval, the District is using up to \$30,000 of its reserve funds to pay for some of the necessary repairs. The amount of reserve funds available is very limited and will only cover a small amount.

The slides following my testimony show the deteriorating canal lining and small places where repairs have been made at the District's own expense.

Looking for an alternate water supply:

Because there was no water available in Twin Buttes Reservoir, the District has contracted with the City of San Angelo for the use of its reclaimed wastewater from its wastewater treatment plant. This provides for 8 inches of wastewater per acre of land annually. This water has to be used on a continual basis because the City of San Angelo produces wastewater daily and has limited storage capacities. This reduces the amount of water that can be provided to farm crops during the growing season, which is typically during the spring, and summer months. There was additional stress placed on the District because a return flow pumping system had to be installed to keep the wastewater from entering into the Concho River. A loan from the Texas Water Development Board in the amount of \$150,000 was made available to the District to help finance the cost of the pumping system, which cost around \$190,000. Annual payments to the TWDB are made by assessing fees to the farmers in the District. These fees are in addition to the fees already mentioned. The amount of water available from the wastewater treatment plant is only 8 inches per acre per year. The farmers have to pay full irrigation prices yet they only re-

ceive 8 inches of wastewater per acre per year and nothing from Twin Buttes Reservoir.

Effects of drought and depressed commodity prices on farmers in the District:

The local Texas Agricultural Extension Agents assisted the District personnel in preparing the following data. The data compares the average income during the years from 1988–1992 when 24 inches of irrigation water per acre was available and the year 2000 when there was no water available for irrigation from Twin Buttes Reservoir.

Crop Years 1988-1992	<u>Crops Grown</u>	<u>Cash Receipts</u>
	Cotton	\$1,705,312.50
	Grain Sorghum	\$ 232,232.00
	Wheat	\$ 61,620.00
	Corn Ensilage	<u>\$ 200,000.00</u>
Total all crops		\$2,199,164.50
Crop Year 2000		
	Cotton	\$1,085,280.00
	Grain Sorghum	\$ 94,500.00
	Wheat	\$ 115,670.00
	Corn Ensilage	<u>\$ 124,800.00</u>
Total all crops		\$1,420,250.00
Difference		(\$778,914.50.)
This equals a 33.3% loss in income.		

The results for the year 2000 would be very similar to the years 2001 and 2002 as well as other years that there was no irrigation water available from Twin Buttes Reservoir. The Extension Agent was only asked to provide the most recent year's data available which, at the time, was the year 2000.

Possible solutions:

Included below are several suggestions that would help solve the current problem.

- Extend the repayment period of the loan from 40 to 50 years. This would allow the annual payments to be reduced because they would be extended for an additional 10 years. This same option was granted to the City of San Angelo in 1971.
- Reduce the amount owed to the Bureau of Reclamation on the repayment contract to allow the District to have funds available for the repairs on the canal system. The canal system is going to continue to deteriorate and must be repaired.
- Restructuring the loan would also help. If the end date of the repayment contract could be extended for each year that a deferment was granted this would keep the payments the same each year and not get bigger each time a deferment was granted.
- Have payments to be made only when water in Twin Buttes Reservoir is available for irrigation use. If a full 24 inches per acre were available, then the full payment would be due. If 12 inches, for example, per acre were only available, then 1/2 the payment would be due. This would give some relief to the farmers when the full allocation is not available.

If we continue as we are, the payments will only get bigger and the ability of the farmers to pay the debt will only get more difficult. In August 29, 2000, then Regional Director Maryanne Bach states "Reclamation is aware of the drought conditions in the State of Texas which continue to impact the availability of water within the San Angelo project. Although the deferments received by the District to date have not increased the District's remaining obligation to the United States, the deferments have increased the amount of the annual payments for the remaining repayment period because Reclamation does not have the authority to extend the repayment period without congressional approval. The increased annual payments place additional burden on the District. This financial burden has been exacerbated by current drought conditions and Reclamation believes any additional increase will only lead to future financial difficulty that cannot be offset by Reclamation under its limited authority."

Conclusions:

The Tom Green County Water Control & Improvement District 1 does not ask for a handout. Instead, the District is asking for a helping hand. Any consideration in the form of relief will be greatly appreciated. The District has tried to be a good partner in this effort. The District also has an excellent working relationship with the Bureau of Reclamation and has welcomed any and all support or suggestions made by its personnel.

Honorable members of the Subcommittee, we have a deteriorating canal system and we still owe over 19 years on the debt. It's like owning an old worn out car but still making payments. Repairs can be devastating.

Thank you

[Pictures attached to Mr. Friend's statement have been retained in the Committee's official files.]

Mr. CALVERT. I would now ask Mr. Limbaugh, the Director of External and Intergovernmental Affairs for the Bureau of Reclamation to come forward and give his testimony.

Then we will ask questions of you both.

Mr. Limbaugh, you are recognized for 5 minutes.

STATEMENT OF MARK A. LIMBAUGH, DIRECTOR, EXTERNAL AND INTERGOVERNMENTAL AFFAIRS, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF INTERIOR

Mr. LIMBAUGH. My name is Mark Limbaugh. I am the Director of External and Intergovernmental Affairs for the Bureau of Reclamation here in Washington. I am pleased to be here to give the department's views on H.R. 4910, authorizing the Secretary to revise the repayment contract with the Tom Green County Water Control and Improvement District Number One, a reclamation San Angelo project in Texas.

I would ask Mr. Chairman, that you enter my written comments in the record.

Mr. CALVERT. Without objection, it is so ordered.

Mr. LIMBAUGH. The San Angelo project was authorized by Congress in 1957 to provide flood control, municipal and industrial water for the city of San Angelo and supplemental irrigation supplies to the district.

The project also provides recreational and fish and wildlife benefits for the general public. The project has endured chronic drought conditions since it was constructed in '63. These arid conditions have resulted in Reclamation granting seven deferments to the annual installments due on the district's 40-year repayment contract.

During the past 6 years alone, four deferments for the district's annual payment to the United States have been granted because of unavailability of irrigation water.

The department does support H.R. 4910. Section 1 of H.R. 4910 provides some immediate financial relief to the district by extending its contract by 10 years and reducing its annual repayment to the United States.

Extending the repayment terms of the contract will not likely be a permanent solution to the water scarce conditions plaguing the project, but will give Reclamation time to assess the project's long-term challenges and will aid the district in meeting an annual repayment obligation under the contract.

Finally, Section 2 of the bill was previously enacted into law and appears to be inadvertently included in the drafting of the bill and should be deleted from H.R. 4910.

Mr. Chairman, this concludes my testimony on H.R. 4910. I would stand for questions.

Mr. CALVERT. I thank the gentleman.

[The prepared statement of Mr. Limbaugh follows:]

Statement of Mark Limbaugh, Director, External and Intergovernmental Affairs, U.S. Bureau of Reclamation, U.S. Department of the Interior

My name is Mark Limbaugh and I am the Director of External and Intergovernmental Affairs of the Bureau of Reclamation (Reclamation). I am pleased to present the Department's views on H.R. 4910 which authorizes the Secretary to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1 (District) at Reclamation's San Angelo Project, Texas.

The San Angelo Project (Project) was authorized by the Congress in 1957 to provide flood control, municipal and industrial water for the City of San Angelo, recreation, fish and wildlife, and supplemental irrigation supplies to the District. The Project has been beset by chronic drought conditions since it was constructed in 1963. These arid conditions have resulted in Reclamation granting a total of seven deferments of the annual installments due on the District's forty-year repayment contract. During the past six year's alone, four deferments for the District's annual payment to the United States have been granted because of the unavailability of irrigation water. Section one of H.R. 4910 provides some immediate financial relief to the District by extending its contract with Reclamation by ten years and thereby reducing its annual payment to the United States. Extension of the repayment period will not likely be a permanent solution to the water scarcity facing this project. However, taking this action will give Reclamation some time to access the project's long-term challenges and will aid the District by providing needed repayment relief.

Therefore, the Department supports H.R. 4910. I would also add that Section two of the bill does not apply to the District, and should be deleted. This language was taken from legislation previously passed to address a repayment situation with the City of San Angelo. However, the particulars of the two situations are different, and section two should therefore be struck from the bill.

Mr. Chairman, thank you again for the opportunity to present the Department's views on H.R. 4910.

Mr. CALVERT. Well, I have reviewed your testimony and the legislation. I will make this real simple. I support it. We intend to mark it up here shortly after our next hearing and we will move this legislation to the Full Committee where I am sure we will be able to move it very rapidly.

I want to thank all of you for coming today and for your testimony.

Mr. STENHOLM. Thank you, Mr. Chairman. We would like the entire statement of Mr. Friend's to be made part of the record as submitted. Some of the pictures show some of the deterioration that they are working on now with their own money, and that is part of the record also.

Thank you for your courtesy.

Mr. CALVERT. Certainly, without objection.

Mr. Osborne does have a question.

Mr. OSBORNE. Yes. I don't want to take a lot of time here, but just one quick question, probably for either Mr. Friend or Mr. Stenholm.

I share some of your concerns, you know in Nebraska we are running into the same situation. If you are only getting eight inches of water, sometimes it seems to me that everybody dies a slow death.

Is there any possibility to cut back on irrigated acres? I know that is very contentious, but I have an area in Nebraska where we have about 40,000 acres being irrigated out of one aquifer and there is only enough water for about 20,000. So, everybody is getting just a little bit and they are all losing money. Anyway, I wondered if that applies to your situation or not?

Mr. STENHOLM. Mr. Osborne, it does apply. I am glad you mentioned that. Several of our farmers have eliminated irrigating some particular fields altogether and placing the additional amount of water that might be allocated to that field to a different field, just to have an adequate amount of water.

So, we have several farm tracts that are eligible farm tracts to receive water in the district that are receiving no water because of that particular fact.

Thank you for asking.

Mr. OSBORNE. Thank you.

Mr. CALVERT. The issue of fallowing is probably something we will be talking about later, Mr. Osborne. Thank you.

I thank this panel. We will move this legislation as soon as possible and have it to the full floor to execute this as soon as we can.

Mr. STENHOLM. Thank you, Mr. Chairman.

STATEMENT OF KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT. The next item we will discuss is of great importance to California and certainly to the region I represent and to my colleagues who are going to go down to the dais as I give my opening statement, Mr. Hunter and Mrs. Bono.

The next item, of course, is H.R. 5123 relating to the use of Colorado River and the Salton Sea. The water transferred between the Imperial Irrigation District and the other southern California water agencies is a critical component of the plan for California to reduce its annual diversion of the Colorado River from the current 5.2 million acre-feet to its annual apportionment or 4.4 million acre-feet.

However, some argue that the transfer should be linked to the continued existence of the Salton Sea. This Subcommittee has conducted six hearings in the last year and a half, with three being held out west, regarding the California 4.4 Plan. We have been told numerous times that the quantification settlement agreement, QSA, would be completed by this December.

In addition, Congress is still waiting for the Salton Sea restoration plan report. The completed report has been promised to Congress by the previous administration and the current administration.

Last December at a hearing in Las Vegas we were told that the report would be available no later than January of this year, yet it still has not come. The Salton Sea Reclamation Act of 1998 provided a report deadline of January 1, 2000. The Congress has been very patient in waiting for the completion of the report, but our patience is running out.

The Salton Sea Reclamation Act of 1998 clearly indicates that it was never the intent of Congress for the California water agencies

involved in the water transfers to be responsible for the restoration of the Salton Sea.

The situation we have with the Salton Sea is a great paradox. Regardless of the actions associated with the transfer, the Salton Sea as we know it today will change significantly in the next 20 to 40 years. The only difference with the transfer involved is the amount of time before the Salton Sea reaches a salinity level that will not sustain the ecosystem as we know it today.

It is time to start thinking outside of the box on this issue. The water transfer should not be stopped or be required to mitigate all impacts on the evolving sea. The sea is going to change regardless of the transfers.

H.R. 5123 proposes a goodwill contribution by the agencies involved in the transfer to provide \$50 million in assistance for the regional environment. This will allow the agencies to move forward with the California plan while all of us continue to address the challenges of the Salton Sea.

Mr. Hunter has provided a solution. I expect the witnesses today to discuss and critique this bill and offer viable solutions, if needed, to improve it.

In addition, I expect by no later than mid-September a viable plan to be submitted to this Subcommittee on the implementation of the QSA.

It is unacceptable that the previous administration failed to provide Congress and the current administration a preferred alternative on the Salton Sea restoration. I expect a plan from the administration identifying a preferred alternative by October first of this year.

I certainly look forward to our two witnesses that will be discussing the sea.

First, I will recognize Mr. Hunter who put this bill forward, for 5 minutes. Then, our colleague, Mrs. Bono.

[The prepared statement of Mr. Calvert follows:]

Statement of the Hon. Ken Calvert, a Representative in Congress from the State of California

Today we will hear testimony on two unrelated bills.

First, H.R. 4910, to authorize the Secretary of the Interior to revise a repayment contract with an irrigation district in Texas.

The next item we will discuss is one of great importance to the water security and economic well being of southern California and the Country. H.R. 5123 relates to California's use of Colorado River water and the Salton Sea.

The water transfer between the Imperial Irrigation District and other southern California water agencies is a critical component of the plan for California to reduce its annual diversion of Colorado River water from the current 5.2 million acre feet to its annual apportionment of 4.4 million acre feet. However, some argue that the transfer should be linked to the continued existence of the Salton Sea.

This Subcommittee has conducted six hearings in the last year and a half with three being held out west regarding the California 4.4 Plan. We have been told numerous times that the Quantification Settlement Agreement (QSA) would be completed by this December.

In addition, Congress is still waiting for the Salton Sea Restoration Plan Report. The completed Report has been promised to the Congress by the previous administration and the current administration. Last December at a hearing in Las Vegas, we were told that the Report would be available no later than January of this year, then later in the spring, yet it still has not come. The Salton Sea Reclamation Act of 1998 provided a report deadline of January 1, 2000. The Congress has been very patient in waiting for the completion of the report, but our patience is running out.

The Salton Sea Reclamation Act of 1998 clearly indicates that it was never the intent of Congress for the California water agencies involved in the water transfer to be responsible for restoration of the Salton Sea. Section (3) of the Act states:

In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

The situation we have with the Salton Sea is a great paradox. Regardless of the actions associated with the transfer, the Salton Sea as we know it today will change significantly in the next 20 to 40 years. The only difference with the transfer involved is the amount of time before the Sea reaches a salinity level that will not sustain the ecosystem, as we know it today.

It is time to start thinking outside of the box on this issue. The water transfer should not be stopped or be required to mitigate all the impacts of an evolving Sea. The Sea is going to change regardless of the transfers.

H.R. 5123 proposes a good will contribution by the agencies involved in the transfer to provide 50 million dollars in assistance for the regional environment. This will allow the agencies to move forward with the California Plan while all of us continue to address the challenges of the Salton Sea.

It is time to not just critique solutions but provide viable recommendations. Duncan Hunter has provided us a solution and I expect the witnesses today to discuss and critique this bill and offer viable solutions if needed, to improve it.

In addition I expect, by no later than mid-September, a viable plan to be submitted to this subcommittee on the implementation of the QSA.

It is unacceptable that the previous administration failed to provide Congress and the current administration, a preferred alternative on the Salton Sea Restoration. I expect a plan from the administration identifying a preferred alternative by October 1, 2002.

I look forward to hearing from our witnesses.

**STATEMENT OF DUNCAN HUNTER, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. HUNTER. Thank you, Mr. Chairman. I have a written statement for the record. I would ask that it be submitted and I would simply talk to the issue.

Mr. CALVERT. Without objection, it is so ordered.

Mr. HUNTER. Thank you. It is good to be here with you and the Subcommittee and my good friend, Mary Bono, who has worked on this issue tirelessly. In fact, we have all probably put more hours in on the Greater Salton Sea problem than any other southern California issue over the last several years.

Mr. Chairman, you laid out the backdrop against which this legislation is offered very effectively. We have the 4.4 Plan that we in California must comply with. We must be in compliance by the end of the year or we stand to lose 800,000 acre-feet of water.

Now, a number of years ago we started the Salton Sea Restoration Project. We initiated legislation and Mrs. Bono was very key to this and you were and the other members of the task force for the Salton Sea initiated legislation that set in play the program under which the administration would come up with a plan to save the Salton Sea and presumably then we and the Federal Government and the State government would divide that fiscal responsibility, or fiscal burden. We would pay, we would begin to move forward on the plan and we would save the sea.

It was never contemplated that the water transfer that now is a cornerstone to compliance with the 4.4 Plan would precede the saving of the Salton Sea. It was always contemplated, because this was back in the 1990's that we would have this plan in place and

moving to save the Salton Sea, that in fact there wouldn't be any burden on the water transfer because the initiative workups that we did on saving the sea were all done with charts and figures and information and analyses that contemplated the water transfer and said, "Here is what we are going to have to do to meet the salinity problems and the other problems associated with the sea in the context of the water transfer."

Now, what happened? Things don't always come about in neat packages in government operations. Now we have the transfer preceding the sea.

I think it is appropriate to talk just a little bit about the people of the Imperial Valley and the role of the IID, which is the farming area in southern California which is immediately to the east of the San Diego urban community. This is an area which is the most productive agricultural area, arguably, in the world, with massive production, the very finest of America farming techniques, sharing that big basin with the Coachella Valley Irrigation District.

For practical purposes, the IID, the Imperial Irrigation District, is the people of Imperial County. The irrigation district is not owned by a few people. The voters are not a limited class or pool of people. It is all the voters in Imperial County.

Now, the voters of Imperial County and the people of Imperial County who have invested their lives there have always worried that at some point the cities would force them to put their land back to desert, to take these fields that their forebears put in and the frontier that was the Imperial Valley in the early 1900's, that that would revert back to desert in order to send water to the cities in the same way that Owens Valley was permanently rendered a desert for the benefit of Los Angeles.

And so when the people of Imperial Valley were asked to put together some conservation measures and take the fruits of those conservation measures and transfer those to thirsty people in the cities, they were very concerned.

They, through their representatives said, this cannot be done by sending part of our farmland back to desert. It can't be done by fallowing. The answer was always "no, we are going to ask you to do what we have always asked you to do which is put in more conservation measures such as water pump back systems, lining of canals and what is known as on-farm conservation practices."

The people of Imperial Valley were so concerned that they were being tricked into fallowing or would be forced into fallowing that they even put into the contract which they ultimately signed, which is today signed and executed with the other water districts, that this would not take place through fallowing; that they would be allowed to do on farm conservation.

Indeed, for years they were threatened with lawsuits if they didn't conserve water and didn't put in more conservation measures.

Now, time marches on and we now have this emergency before us in that we have to comply with the 4.4 Plan by the end of December or be penalized. The lynchpin of that compliance is the water transfer. The people of Imperial Valley stand ready to do on-farm conservation, to do what they promised they would do and

signed their name to. They are people that sign their names and live up to their agreement.

But they have now been told that there has been a change. The reason there has been a change is because our Fish and Wildlife people can't figure out a way to mitigate the effects on the endangered species that inhabit the Salton Sea, there is not a way to mitigate the effects of the water transfer.

Well, the first thing that Imperial Valley said was, "Wait a minute, the Salton Sea Program was supposed to fix the Salton Sea." And the Federal Government said essentially, "We are not quite there yet; we are going to wait on you this time."

So, the real problem we have here is that it is going to cost a lot of money to restore the Salton Sea, maybe \$1 billion. We have a transfer that must go forward. The question is: Where does the financial burden need to be placed to mitigate the Salton Sea and restore the Salton Sea? Should it be on the transfer and if so, how much of it? Or should it be on the Federal and State governments as we always contemplated.

Essentially, in the end this is a vision of dollars, who pays for what. Now, the problem here is this: When you have endangered species and you have the Fish and Wildlife work for a year, IID worked for a year, the State Fish and Game worked for a year. They thought they were close at one time, at least according to the Imperial Irrigation District, at solving the endangered species problem with a \$100 million-plus plan that now would be carried by the water transfers, by the agencies.

In the end, the Fish and Wildlife said, "No, you can't feed pelicans out of ponds, this won't work."

Now, if you accept them at their words and State Fish and Game said, "We can't find a way to mitigate for this," what you have is a business deal that must go forward and yet it is hampered by the one thing that keeps any business deal from going forward and that is total uncertainty.

Is the exposure for the water transfer in the agencies, Coachella and Met and San Diego and IID and the people that they represent, is that going to be exposed to billion dollar judgments in the future because of the water transfer and the lowering of the Salton Sea? Are we going to maybe get through the night by making an agreement for the first couple of years and then find a new endangered species in 2010 that brings about a \$500 million or billion dollar judgment in mandate for increased expenses?

So, you have the one thing that keeps a business deal from going forward and that is total uncertainty. My bill, Mr. Chairman and my colleagues, we don't know how to save the Salton Sea yet. That is admitted by all parties. Mr. Kirk behind me doesn't know how to save the sea. They have not come to a solution. The Interior Department just wrote us and said, "We don't have the solution yet. We are working, but we don't have it."

So, here is what we have to do. In the midst of this uncertainty, we have to move forward with some certainty. The way to do it is in a very practical, common sense way, and that is to say this: Let's come up with a number that the water transfer itself the agencies have to carry, that they will put into the pot, is it \$10 mil-

lion, \$20 million, 30 million? And when they do that, they have satisfied their requirement under the Endangered Species Act.

Now, the Endangered Species Act, for people who are concerned about the environment and fish and game, is not halted, is not bared, is not limited at that point, but any additional expenses that go to saving the sea have to be paid by the entities that were supposed to pay them in the first place, which is the Federal Government and the State government in California.

So, I have put in my bill \$50 million. The agencies, when they pay in \$50 million into the pot, when they deliver that to Fish and Wildlife and State Fish and Game to develop their practices, they are done and the transfer can then go forward and it can go forward on a permanent basis.

Now, my good colleague, Mary Bono, has a real concern about the dust situation because as the Salton Sea recedes, you have that shoreline exposed. With the wind conditions that exist in that basin that we share, she is concerned, and rightfully, about her constituents and about the dust problem that might cause.

So, I have put into this bill a total section on mitigation of wind erosion and dust storms. We have required that there be a plan put in place for ground cover on this exposed shoreline and that that ground cover be worked into a fish and wildlife habitat with marshes and upland game birds, plants and that that be done in coordination with State Fish and game and that that habitat that is created by putting vegetation on that exposed shoreline can be turned into a plus in terms of giving an environment for anglers, for hunters, for bird watchers and other recreationists.

So, we have tried to address the dust problem in this legislation. So, Mr. Chairman, very simply, against this backdrop of total uncertainty, at a time when we need certainty so that we can move forward, that is what this bill provides.

I would hope that we could move it through the process and put it in place and then move forward over the next five or 10 years to save the Salton Sea, using that \$50 million. It is the first substantial upfront money that will have been put into this pot by any group.

So, thank you, Mr. Chairman, and members of the Committee. [The prepared statement of Mr. Hunter follows:]

Statement of Duncan L. Hunter, a Representative in Congress from the State of California

Mr. Chairman and Members of the Subcommittee, thank you for holding this hearing on HR 5123, the Colorado River Quantification Settlement Facilitation Act. This legislation is absolutely critical to California's water security and to ensure that the State reduces its excess use of the Colorado River.

As you know, for years, Colorado River Basin states have been increasing pressure on California to live within its basic apportionment of 4.4 million acre feet (MAF) annually from the River. California currently uses an average of 5.2 million acre feet. The nearly 800,000 acre feet (AF) of water over the 4.4 MAF apportionment has been used by the growing urban populations of Los Angeles and San Diego.

Initially, California was able to exceed its annual share because Nevada and Arizona had not fully developed their apportionments, and under the Law of the River, California could temporarily claim their unused shares. However, since 1997, both Nevada and Arizona have made full use of their apportionments. The excess water to meet Southern California's urban needs now comes mainly from Colorado River flows that the Interior Secretary has declared a surplus. The Secretary can declare

a surplus when there is enough water in Colorado River reservoirs to meet needs in excess of the 7.5 MAF apportioned to the Lower Basin.

Pressure from the Basin states and the Department of Interior eventually brought the State of California and its water agencies together to develop the Quantification Settlement Agreement (QSA). In 1999, the State of California, the Imperial Irrigation District, the Coachella Valley Water District (CVWD), the San Diego County Water Authority (SDCWA) and the Metropolitan Water District (MWD) agreed to the "Key Terms" of the QSA. The QSA has become the core of the California Colorado River Water Use Plan, the blueprint for bringing the state within its 4.4 MAF apportionment.

The execution of the QSA requires a number of objectives to be met, including the completion of all the state and federal environmental documentation and permitting for required water transfers. Those include an annual 200,000 AF IID to San Diego transfer, an existing IID-MWD 110,000 AF transfer and an additional 126,000 AF to Coachella Valley. An additional 94,000 AF will be made available by lining the All American and Coachella canals. The transfers, made possible largely through increased on-farm efficiency and other conservation measures, will generate a total of 539,000 AF of badly needed water within California.

The Key terms mandate that the QSA must be finalized by December 31, 2002. Completion by that date allows California a 15 year grace period to gradually ramp down to 4.4 MAF of annual use. Should the deadline not be met, the Secretary of Interior would be forced to immediately cut California's surplus use of the River on January 1, 2003. Such an event would mean an immediate 800,000 AF cut of flows to California, causing an immediate State water crisis affecting the economy of the entire Southwest.

For my constituents in the Imperial Valley, the concept was simple: Help California reduce its excess use of Colorado River water through the sale of conserved water to rapidly growing urban neighbors. To carry out both of these goals, farmers in the Imperial Valley, among the most productive in the world, agreed to irrigate the same amount of land with less water by implementing conservation measures, such as pump back systems and lining irrigation canals. These measures would be expensive, but could be paid for by proceeds from the water sales.

Normally, agricultural communities tend to look with suspicion on efforts by urban interests to acquire more water. However, to gain the trust and assistance of Imperial Valley residents, already suffering the highest unemployment levels in California, they were promised that under no circumstances would following be forced upon them as a means of providing water to San Diego and Los Angeles. To this end, the IID-San Diego transfer agreement specifically prohibited following as an option.

The water agencies proceeded as originally planned toward completion of the QSA, but they ran into unanticipated regulatory and environmental problems that placed the QSA at risk of failure. The key problem lies in the water conservation measures required of Imperial Valley farmers to provide water for the transfers. The Salton Sea's sole inflow is agriculture run-off. To implement the required on-farm conservation measures would mean a reduction of run-off from farms, hence a reduction of inflows to the Salton Sea. To compound the problem, the Sea is a terminal lake - meaning it has no out flow - and salinity levels are steadily rising at a rate that will cause this prolific fishery to go hyper-saline unless a restoration plan is implemented. The water transfers will likely hasten the coming date at which species will not survive at the Sea.

These complications were not anticipated since the Salton Sea Reclamation Act of 1998 (P.L. 105-372) established the rehabilitation of the Sea as a federal responsibility and required the Department of Interior to develop a final restoration plan, allowing for reduction of inflows of up to 800,000 AF to the Sea, by January 1, 2000. The water agencies had depended on Interior complying with the law and having a complete plan for the Sea in place. However, Interior has failed to finalize a plan for the Sea, and is now more than 2 ° years over due. Given these complications resulting from an absence of a Salton Sea plan, it appeared federal legislation would be needed to ensure that water agencies would not be held responsible for rehabilitation of the Sea and to ensure successful completion of the QSA.

As a result, nearly two years ago at the request of Southern California water agencies, I agreed to introduce legislation to assist in the implementation of the QSA. I worked with my friends and colleagues, Representatives Jerry Lewis, Ken Calvert and Mary Bono, as well as water agencies and the Salton Sea Authority to develop legislation to provide water security to the Colorado River Basin and to minimize impacts to the Salton Sea. The result of our work was the Colorado River Quantification Settlement Facilitation Act, which I recently made revisions to and reintroduced to gain additional support. Key provisions of H.R. 5123 are:

- \$60 million for mitigation for possible airborne dust from exposed shorelines resulting from water transfers, and for habitat enhancement projects benefitting wildlife at the Salton Sea.
- \$57 million for construction of off-stream reservoirs near the All-American Canal to maximize use of the Colorado River.
- A division of responsibility for mitigation of impacts to the Salton Sea, providing for a \$50 million contribution by water agencies and ensuring Federal and State responsibility for additional needs.

Absent certainty of passage of this legislation, the Imperial Irrigation district has stepped up its efforts over the past year to pro-actively negotiate a successful completion of the QSA with the Department of Interior and the State of California. However, federal and state regulatory agencies have recently expressed a reluctance to allow for proposed mitigation for impacts the water transfers may have on the Salton Sea. As a result, Interior, the State and others have been pushing Imperial Valley to fallow great portions of their agriculture acreage in order to provide the needed water to send to the cities - or face seizure of the water with no obligation of payment. Such action would cause incredible damage to a community already beset with widespread economic woes. To force them to fallow land without just compensation would eliminate hundreds of jobs and cost the County millions of dollars they do not have.

Opponents of this legislation are quick to find fault with my desire to protect farmers in my district from excessive lawsuits and from bearing the entire burden of Endangered Species Act impacts resulting from the water transfers. To those, I would ask what action they would take if their communities were faced with the hardship that my constituents have endured? For years, Imperial Valley farmers have been threatened with lawsuits for "wasting" too much water. Now that they have acted in good faith to implement water efficiency practices so that their urban neighbors will gain additional water for their growing needs, my farmers are faced with billion dollar lawsuits for conserving water. My constituents are unfairly trapped in this cruel cross fire and they must be protected. A poor community of less than 200,000 people cannot afford to carry the entire liability for the transfer they are now required to implement.

Again, I thank my friend Chairman Calvert for holding this hearing on this critical piece of legislation, and I invite those interested in assisting California to meet this December 31 deadline to work with me to see it through without needlessly punishing an undeserving community. I encourage your "aye" vote on H.R. 5123.

Mr. CALVERT. We thank the gentleman.
Mrs. Bono, you are recognized.

**STATEMENT OF MARY BONO, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mrs. BONO. I want to thank you, Chairman Calvert, for allowing me to testify today on H.R. 5123. I especially want to thank you and my colleague, Duncan Hunter, for all of your continued efforts and focus on the Salton Sea and the issue of the QSA.

I would also like to thank Congressman Miller for his leadership and his help with this complex issue as well.

All of us agree that California must take meaningful steps toward reducing its usage on Colorado River water. The QSA is the key component to do just this. Therefore, I understand the need for several of the provisions within the legislation before us today.

H.R. 5123, the Colorado River Quantification Settlement Facilitation Act, brings to the forefront several important issues we must contend with. While I appreciate Mr. Hunter's attempts to address my concerns related to air quality, I still cannot support this bill in its current form.

My concerns surrounding the issue of these water transfers in the bill have always been the possible denigration of air quality in the Coachella and Imperial Valleys and the lack of a plan to address this probability. Many community groups, like the American

Lung Association, have voiced their concerns about possible air quality impacts.

Tragically, Imperial County's childhood asthma hospitalization rate is already more than twice as high as the State average. Therefore, while the Salton Sea serves a great purpose in benefiting many species and plant life inhabiting it, the key factor for me is the impact barren parts of the sea will have on our air quality.

Some individuals believe that the sea will die anyway, with or without these water transfers and therefore should not be consideration. But there are serious consequences of a dead sea. Owens Valley, according to the EPA, is the dustiest place in the United States, having about 75 square miles of exposed land. The Salton Sea, if all of the water transfers continue without mitigation, faces over 105 square miles of exposed sea surface.

Therefore, while there is a legitimate question of how we can restore the sea, a dead sea could eclipse Owens Valley as the dustiest place in the United States.

If we don't fact this concern head on while facilitating these water transfers, our community will potentially have high financial and health costs to pay later on.

Mr. Hunter's bill mandates marshes and ground cover to address the effects of wind erosion. However, I do not believe we have a complete understanding of how to best address and reduce shoreline as it relates to air quality, nor do we have any facts as to what kind of an impact these transfers will have on our sea or on our air.

Therefore, H.R. 5123 prescribes a solution when we don't fully understand the type of degree of the problem. In addition, H.R. 5123 releases the water districts from liability with concerns to the impacts of these water transfers.

While IID should not bear the lion's share of this burden, the district should be assessed a justifiable measure of responsibility for mitigation costs and environmental liabilities.

However, in addition to IID, the end users, as well as the State and Federal Government also have an obligation to provide financial assistance in any mitigation effort. Recently, MWD, San Diego Water and the Coachella Valley Water District, as well as Senator Feinstein, recommended an alternative form of fallowing as an option to achieve this goal.

I understand the concerns of farmers and businesses in the Imperial Valley. You have an obligation to evaluate the negative impacts of fallowing as well. However, I also believe all options should be placed upon the table so we can formulate an effective response which, perhaps, contains within it a variety of concepts.

I am encouraged by the talks that four water districts have engaged in. As is usually the case, the best solution to these problems comes from the local and not the Federal level. It is my firm belief that we can move ahead with water transfers and maintain the air quality in the region.

My concern with this legislation primarily is that we are jumping the gun and not following through with good public policy.

So, again, Mr. Chairman, thank you very much for allowing me to testify and for working so hard on this issues.

[The prepared statement of Ms. Bono follows:]

Statement of Hon. Mary Bono, a Representative in Congress from the State of California

I would like to thank Chairman Calvert for allowing me to testify today on H.R. 5123. Mr. Chairman, I appreciate all the time and work you have devoted to this issue.

All of us agree that California must take meaningful steps towards reducing its usage on Colorado River water. The Quantification Settlement Agreement is the key component to do just this. Therefore, I understand the needs for several of the provisions within the legislation before us today.

H.R. 5123, the "Colorado River Quantification Settlement Facilitation Act" brings to the forefront several important issues we must contend with. And while I appreciate Mr. Hunter's attempts to address my concerns related to air quality, I still cannot support this bill in its current form.

My concerns surrounding the issue of these water transfers and this bill has always been the possible denigration of air quality in the Coachella and Imperial Valleys, and the lack of a plan to address this probability. Many community groups, like the American Lung Association, have voiced their concerns about possible air quality impacts. Tragically, Imperial County's childhood asthma hospitalization rate is already more than twice as high as the state average.

Therefore, while the Salton Sea serves a great purpose in benefitting many species and plant life inhabiting it, the key factor for me is the impact barren parts of Sea will have on our air quality.

Some individuals believe the Sea will die anyway, with or without these water transfers, and therefore should not be a consideration. But there are serious consequences of a "dead Sea".

Owen's Valley, according to the Environmental Protection Agency, is the dustiest place in the United States, having about 75 square miles of exposed land. The Salton Sea, if all the water transfers continue without mitigation, faces over 105 square miles of exposed Sea surface. Therefore, while there is a legitimate question of how we can restore the Sea, a "dead Sea" could eclipse Owens Valley as the dustiest place in the U.S. If we don't face this concern head on while facilitating these water transfers, our community will potentially have high financial and health costs to pay later on.

Mr. Hunter's bill mandates marshes and ground cover to address the effects of wind erosion. However, I do not believe we have a complete understanding of how to best address a reduced shoreline as it relates to air quality nor do we have any facts as to what kind of an impact these transfers will have on the Sea or on our air. Therefore, H.R. 5123 prescribes a solution when we don't fully understand the type or degree of the problem.

In addition, H.R. 5123 releases the water districts from liability with concern to the impacts of these water transfers. While IID should not bear the lion's share of this burden, the district should be assessed a justifiable measure of responsibility for mitigation costs and environmental liabilities. However, in addition to IID, the end users, as well as the state and federal government, also have an obligation to provide financial assistance in any mitigation effort.

Recently, MWD, San Diego Water and the Coachella Valley Water District, as well as Senator Feinstein, recommended an alternative form of fallowing as an option to achieve this goal. I understand the concerns of farmers and businesses in the Imperial Valley. We have an obligation to evaluate the negative impacts of fallowing as well. However, I also believe all options should be placed upon the table so we can formulate an effective response which, perhaps, contains within it a variety of concepts.

I am encouraged by the talks the four water districts have engaged in. As is usually the case, the best solution for these problems comes from the local, not federal, level. It is my firm belief we can move ahead with water transfers and maintain the air quality in the region.

Again, Mr. Chairman, thank you for allowing me to testify and for working so hard on this issue.

Mr. CALVERT. I thank the gentle lady.

Without objection, both of you, if you would like to come to the dais and join us with the other witnesses after any questions from the Members.

Are there any questions at this time for the two Members?

[No response]

Mr. CALVERT. Please join us. Come on up. While you are coming up, we will have Mr. Bob Johnson, the Regional Director of the Lower Colorado Region, Bureau of Reclamation come forward.

Welcome, Mr. Johnson. You may begin your testimony at any time.

STATEMENT OF BOB JOHNSON, REGIONAL DIRECTOR FOR LOWER COLORADO REGION, BUREAU OF RECLAMATION, U.S. DEPARTMENT OF INTERIOR

Mr. JOHNSON. Mr. Chairman, it is my pleasure to be here and represent the Department of Interior on these important matters. I would like to ask that my written testimony be submitted for the record and I would provide a summary of that.

Mr. CALVERT. Without objection, it is so ordered.

Mr. JOHNSON. We are very appreciative of the Committee and Congressman Hunter's efforts to address this difficult issue. The department continues to keep all options open as it relates to getting to the end date of putting the quantification settlement agreement in place, including legislative action.

We are not in a position to offer specific comments on this legislation today. We are committed to provide specific comments as soon as possible.

The complex nature of the issues that are included in the legislation requires more thorough review by a variety of government agencies. We need a little more time to be able to respond specifically.

What I would like to do is spend a little bit of time reviewing where we are on the implementation of the QSA and the ESA compliance and also the status of our activities related to Salton Sea restoration studies.

To date the ESA compliance has been pursued under Section 10, Compliance, by the Imperial Irrigation District. They have been working to obtain permits for 96 species that are located in the area of the Imperial Valley and the Salton Sea.

This approach has been difficult and unsuccessful to date. The IID and the Fish and Wildlife Service and the State Game and Fish have been unable to come up with solutions for mitigating the impacts of species, especially those located on the Salton Sea, when on-farm conservation measures are implemented within Imperial.

There is, of course, as we mentioned earlier, an approach that could be followed that would help resolve that issue. That would be for Imperial to use fallowing of farmland as a means to obtain the water for the transfers. That is a complicated issue. Imperial farmers and the Imperial community obviously have some concerns about the local economic impacts. That is still an option that is out there.

I know some interim fallowing programs are being proposed and we are open to considering and working on those alternatives.

We have initiated recently a Section 7 consultation process. We submitted a biological assessment to the Fish and Wildlife Service just this week. We are partnering with the California entities to try to pursue Section 7 compliance.

Section 7 is a Federal process, not a local process. We are able to reduce the number of species that we are trying to address from 96 to 4 and we think the identification of conservation measures to mitigate for a smaller number of species will be much easier. We are hopeful that that process can conclude in achieving ESA compliance for both us as well as obtaining permits for the agencies to be able to execute the QSA.

It does not provide the assurances that the Section 10 process does, but it is a vehicle to get to the signing of the QSA by the end of the year. The Salton Sea is a important resource and I would like to just quickly reiterate our perspective as it relates to the Salton Sea and the transfers.

It has been said earlier, and we agree with the statement that the transfers are not responsible for the impacts to the Salton Sea. The Salton Sea is deteriorating with or without the transfers. The Salton Sea restoration effort is the vehicle to address that broader restoration effort.

We do think that the transfers have to address the impacts of endangered species and obtain compliance with both the State ESA law as well as the Federal ESA law.

Impacts on the Salton Sea do impact species, and from that standpoint the Salton Sea is linked to the transfers. We are hoping that, as I said earlier, our Section 7 process can get to a solution that will allow Imperial to implement on-farm conservation measures and at the same time achieve compliance with the ESA.

Mr. Chairman, I see that I am about out of time. I think I will conclude my remarks with that and be glad to try to respond to questions.

Mr. CALVERT. I thank the gentleman.

[The prepared statement of Mr. Johnson follows:]

**Statement of Robert Johnson, Regional Director, Lower Colorado Region,
Bureau of Reclamation, U.S. Department of Interior.**

My name is Robert Johnson and I am Regional Director of Bureau of Reclamation's Lower Colorado Region. I am pleased to provide the Administration's views on H.R. 5123. The Lower Colorado Region office is integrally involved with the administration of the Colorado River and has worked closely with representatives of California regarding their implementation of the California Colorado River 4.4 Plan and associated issues related to the Salton Sea. The Department testified in earlier field hearings regarding these matters and I will endeavor to not repeat the information provided and submitted for the record in those proceedings. I refer the Subcommittee to that testimony if you desire a more complete background and understanding of the issues being addressed by the California 4.4 Plan.

The Department is very appreciative of Congressman Hunter's and this Subcommittee's efforts to assist in resolving these very difficult issues affecting southern California as well as six other Colorado River Basin States. H.R. 5123 offers some interesting approaches to addressing some of those outstanding issues. However, because of the complexity and limited time for a comprehensive review of the bill, the Administration is not prepared to offer specific comments or positions on the bill's provisions. We would be pleased to provide a more detailed analysis in the near future.

I can report, however, that the Department remains committed to working toward resolution of the issues addressed by the proposed legislation. We continue to keep all options open regarding resolution of the issues, including legislative approaches. However, because it is unlikely that legislation will be enacted before the end of the year, we cannot rely on legislative remedies. We are focusing our energies on finding solutions within the existing legal framework and our existing authorities under federal law.

I would like to provide the Committee with a summary and update on our ongoing activities as it relates to both federal Endangered Species Act (ESA) issues along with and ongoing efforts to define a plan for Salton Sea restoration.

Endangered Species Act Activities

Significant work regarding the potential impacts of California 4.4 Plan water transfers on the Salton Sea have been conducted thus far between IID and the U.S. Fish and Wildlife Service under Section 10 of the ESA. Under this section 10 process, IID has sought to receive ESA permits that cover up to 96 species and obtain assurances that future changes in conditions affecting any of the species will not require further commitments from IID.

As you know, this process has encountered significant difficulty. The underlying water transfer agreements call for farmers in IID to implement on-farm water conservation activities through improved efficiency in order to make water available for transfer. However, reductions in drainage and tail water caused by on-farm water conservation also reduces water inflow to the Salton Sea. Experts predict that such reduced inflow will cause hyper-saline conditions to be reached in the Salton Sea sooner than otherwise would have occurred. This “temporal” impact would affect fish and wildlife using the Sea for habitat, some of which are listed as threatened or endangered.

After extensive ESA discussions between IID and both the California Department of Game and Fish and the U.S. Fish and Wildlife Service, no acceptable mitigation measures for these temporal impacts on the species have yet been identified.

IID's efforts to secure ESA permits under section 10 of the ESA would become much easier to achieve if the water transfers relied on an alternative approach involving land fallowing within IID as the basis for obtaining the water for the proposed transfer. Analysis has shown that impacts to the Salton Sea and associated fish and wildlife from a land fallowing approach are significantly reduced or eliminated. In response, IID argues that land fallowing can trigger a number of negative outcomes and would have an adverse impact on the local economy from reduced agricultural production. To date, land fallowing has generally been found unacceptable by IID as the basis for the transfer. IID has indicated some willingness to implement a short-term fallowing program (up to 5 years) but opposes long-term programs. Short-term commitments do little to reduce the temporal impacts on the Salton Sea and its fish and wildlife resources.

In an effort to find a solution to this problem, the Bureau of Reclamation has offered to undertake a voluntary initiative that could provide IID and the other California water agencies with an alternative to the section 10 process that has proved so difficult to complete. Under this voluntary approach, Reclamation, in cooperation with some—or all—of the four California water agencies involved with the water transfers would propose a number of conservation measures under section 7(a)(1) of the ESA. In this context, and within the section 7 consultation process, it is hoped that a conservation plan to address all currently listed species in and around the Salton Sea could be developed. This conservation plan could potentially provide the basis for appropriate ESA permits for the non-federal actions of the California water agencies associated with implementing the transfer. Under this approach the conservation plan would address the impacts of the non-federal actions on the four species listed as endangered under the Federal ESA (southwestern willow flycatcher, desert pupfish, razorback sucker and the California brown pelican). By narrowing the scope of this approach to the four currently listed species it is hoped that an appropriate and acceptable conservation plan can be developed. Formal consultation for this voluntary approach under Section 7 was initiated on July 23, 2002. If appropriate agreements to undertake components of the conservation plan can be developed with the California agencies, it is anticipated that the consultation can be completed in the time provided under ESA regulations (i.e., within 135 days).

While we believe that this section 7-based voluntary approach will provide a basis for the California agencies to proceed with execution of the water transfer agreements and the Quantification Settlement Agreement (QSA) under the Federal Endangered Species Act, additional compliance activities are likely to be required by the California agencies to achieve compliance with applicable provisions of California state law, particularly the California ESA. Discussions are ongoing with the California Department of Fish and Game to see if a more limited species list might also facilitate State ESA compliance.

The Section 7 process will not provide the assurances that the Section 10 process does. However, it will hopefully allow the deadlines for execution of the California Plan agreements to be met, and it will offer options for the California parties to consider in moving ahead with the transfer. IID will have the flexibility to implement on-farm conservation or utilize fallowing programs, short- or long-term.

Relationship with Salton Sea Restoration

Finally, there is some confusion regarding the responsibility of the California 4.4 Plan water transfers for impacts to the Salton Sea. The transfers are not responsible for the decline of the Salton Sea. Any impacts to the Sea, as discussed above, are anticipated to be temporal in nature. The Sea is deteriorating with or without the transfers and its restoration is being addressed separately as authorized by Congress in the Salton Sea Restoration Act of 1998.

Congress recognized the impact of reduced inflow and directed that those effects be considered in developing alternatives for its consideration. Congress' recognition of the reduced inflows validates the importance of the transfers and the need for implementation with or without a restoration plan at this time.

The California Plan water transfers may, however, have impacts on endangered species and will need to be mitigated for. Mitigation measures may involve activities in and around the Salton Sea to enhance and protect the species, but that does not necessarily translate to an overall restoration of the Sea or responsibility for restoration. Mitigation for impacts to species may also occur off-site and could result in minimal involvement of the transfers in and around the Sea. We are hopeful that the Section 7 process will allow completion of the QSA by year's end with or without the legislative options included in H.R. 5123.

Salton Sea Restoration Activities

Salton Sea Restoration studies are currently under way and will identify a variety of alternatives for stabilizing salinity at the sea. As directed in the Salton Sea Restoration Act of 1998, each alternative will consider declining inflows over time. The Congress anticipated that a variety of activities, including water conservation and transfer, might affect inflows to the Sea and asked that such changing conditions be considered in developing options.

In January of 2000, pursuant to the requirements of the Salton Sea Reclamation Act of 1998, the Department released a combined Draft Environmental Impact Statement/Draft Environmental Impact Report and an Alternatives Appraisal Report. These documents described various short- and long-term restoration features which included such options as on-land and in-sea Enhanced Evaporation Systems, large in-sea evaporation ponds, large water export options to the Pacific Ocean or the Gulf of California, and import options using Colorado River flood flows and/or brine waste water flows from the proposed Central Arizona Salinity Interceptor.

Subsequent to releasing these documents, over 1,500 comments were received from concerned governmental agencies, environmental organizations, and individuals. Although the Department believes that requirements of the Salton Sea Reclamation Act have been met, it agreed to reevaluate additional restoration concepts and continue efforts to prepare a revised alternatives report.

Since the decision to reevaluate was made, numerous scientific and engineering technical workshops have been conducted. In addition, numerous physical and/or chemical engineering and scientific research study initiatives have been implemented. Examples of these research efforts include a 12-acre solar evaporation pond project, a physical and chemical salt research facility, a 700-hour Enhanced Evaporation System test effort, a North shore wetland research projectCa cooperative effort with the Torres Martinez Desert Cahuilla Indian Tribe, and a Vertical Tube Evaporation, or VTE, pilot study using geothermal energy, in cooperation with California Energy (who owns the geothermal facilities). Furthermore, recently proposed efforts through the Lawrence Livermore National Laboratory may result in additional information being collected concerning air quality, underground water resources, and desalination techniques.

Information obtained from these ongoing and proposed efforts has been, and will continue to be, important in providing an accurate description of viable restoration concepts, with realistic cost estimates.

As you are very aware, proposed solutions to restoring the Sea are often complex and potentially controversial, given other related actions involving water transfers and potential reduced inflows. These issues increase our need to be accurate with concept descriptions, performance efficiencies, and cost estimates. Significant progress has been made in developing restoration concepts, but further analysis is needed before finalizing a draft Alternatives Report and releasing it for review. Prior to the release of the draft Alternatives Report we want to assure you that Reclamation will continue to work with the Authority and the public as we move forward on this effort.

Conclusion

In conclusion, we are determined to work with the State of California and the California water agencies to facilitate completion of the proposed California Plan ac-

tivities within the required time frames. Three years of record drought on the Colorado River dictate the need to find solutions. Other states will have little tolerance for failure to meet the deadlines which were proposed and agreed to by all seven Colorado River Basin states. We are keeping all options open for completing the process, including additional legislation. We must however, reiterate our concern that the issues are too complex, the consequences for California are too significant and time is too short to rely exclusively on a strategy that depends on passage of additional federal legislation. We look forward to continuing to work with this Subcommittee and Congress as we move forward with our work on these critical Colorado River issues.

Mr. CALVERT. Mr. Johnson, you and I have been in many hearings over the years, many meetings over the years, regarding the Salton Sea and the Colorado River and the Upper and Lower Basin States. It is somewhat frustrating at times, though, happily a QSA was entered into, but we are running out of time.

We are just about to start the month of August and we have this issue out there that has to be determined by the end of this year. When we started down the path of finding a preferred solution to the Salton Sea a number of years ago, and a lot of money ago — this Congress has appropriated a substantial amount of money — to come up with a preferred solution, because I think everyone on this panel and everyone that has been involved in this issue would agree, in my memory it was ever contemplated that Imperial County, one of the poorest counties in the State of California and the Coachella Valley and others would take on the load of unlimited third-party impacts regarding the Salton Sea.

In saying that, we had thought that we would come up with a preferred solution a lot sooner than that and we could be moving toward that at the same time moving to execute the Quantification Settlement Agreement and move this water transfer forward, which is extremely important, as you know, not just the future of the State of California, but to the future of the entire West, because of the lack of water and the utility of the Colorado River, as you well know.

When do you think we are going to be able to get this preferred solution?

Mr. JOHNSON. As you know, we have been working long and hard on trying to find solutions to the Salton Sea. In fact, we submitted a report to Congress in January of 2000. We received over 1500 comments on that and committed to go back and try to address those comments and reevaluate options for addressing restoration of the sea.

We have, in conjunction with the Salton Sea Authority, continued to pursue a variety of options. The money that you have provided has been most helpful in carrying out a lot of research, doing some very important demonstration programs, helping us understand the alternatives, some of the alternatives and the technical aspects of some of those alternatives.

We have done demonstration solar ponds. We have done some wetlands development. We have done research and are doing research in using geothermal energy to do some desalinization at the sea.

We have been working hard on an alternatives report that would in fact display a number of alternatives as the Congress directed in the 1998 legislation.

Mr. CALVERT. Well, as you can understand, Mr. Johnson, the problem that we have today and the reason we are having this hearing today and the reason Mr. Hunter is attempting to find a solution to this problem is because we are running out of time.

Whatever that preferred solution may be, whatever the cost may be, it may be something we can do, something we can't do, but it is difficult for this Congress to analyze any potential solution to the Sea if in fact we don't have something to analyze.

You mentioned a number of scenarios. Granted, they were put forward to us, but we would like the Department of Interior to be more forthcoming, to come up with a solution that we can look at seriously because here we are today, Mr. Hunter has a bill up. It is like everything we do around here. Some people like it and some people don't. But at least he has something on the table.

What we are trying to do is come up with a viable solution that will move this QSA forward because as you know, you were in the negotiations with the Upper and Lower Basin States. I don't know if they are very sympathetic to the problems of the Salton Sea or the problems of the State of California when December comes around, that if in fact we don't have a solution to this problem and if we don't move this forward, I suspect Humpty Dumpty is going to fall off the wall and I don't know if we can put him back together again, quite frankly.

So, again, we are running out of time. I would hope that you could do a more detailed analysis of this bill very quickly. I was hoping before this hearing today and hopefully very soon that you could come back to us and help us come up with a solution to this problem.

I am going to come back to you with some other questions in a moment, but my time has run out.

So, I will move to Ms. Solis and others questions on the panel.

Ms. SOLIS. Thank you, Mr. Chairman. I appreciate the opportunity to be able to ask questions. I was interested in hearing the statements made by Congresswoman Bono that lead me to believe that she is not in agreement with this proposed legislation.

I have some concerns as well. You mentioned earlier, Mr. Johnson, that you haven't had the time to assess appropriately what this plan will provide. I have those questions and concerns as well and would ask that your Agency submit any information it currently has to this Committee. We need the recent ESA biological assessment. Those materials haven't been given to us and I would hope that you can make that available to this Committee.

Mr. JOHNSON. Yes, we can.

Ms. SOLIS. Some of the issues I tend to be concerned about deal also with job loss. We are going to be looking at trying to create mechanisms to address some of the issues that were raised. Current levels of unemployment, I understand, are very high in the Coachella Valley.

What remedies are going to provide some alleviation for the people who are going to be affected there by job loss? That is one issue.

The other is the fact that we are moving so quickly here, in a matter of hours we are going to be voting on this. This is something that doesn't necessarily happen quite often.

Mr. CALVERT. If the gentle lady would yield on that point, the problem we have, as you know, we are leaving, hopefully, tomorrow night and will be gone until September.

At this point we need to move something forward even if to have it to the Full Committee when we return as we can hopefully come up and try to move the Department of Interior and others to a solution of this problem.

If we don't execute the Quantification Settlement Agreement by December 31st, the agreement falls apart with all of the States that are involved in this agreement.

I suspect there will be changes to this legislation. We will work with Ms. Bono and others that have concerns about this legislation. But time is of the essence. No matter what our positions may be on this particular bill, again, I am hopeful that we can move it from this Subcommittee forward.

Enough of us will have the summer to look at this, discuss this is with other people, talk about changes in the legislation and so forth. But it is important that we keep this thing on track and move it forward.

Ms. SOLIS. Mr. Chairman, just reclaiming my time, one of the issues that I think also needs to be addressed is with respect to the mitigation that the Federal Government will have to take on. We are putting a cap on this here. As we all know, we are faced with a short fall in our budgets here. How much liability can we assume if this plan moves forward and things don't work out?

Those are some concerns that I have. I wish that I could ask for the same things on some of the issue areas that I am dealing with in my own district. But at this time I just don't see that the government can take on this kind of liability that are projected here, up to \$2 billion. So, I have some very serious questions about that.

Also, with respect to the Endangered Species Act, I do think we have to have some balanced approach here.

Just given your comments, Mr. Johnson, I am not getting a sense that we have enough of the answers yet from your department as well. You can respond.

Mr. JOHNSON. Well, we are embarked, I believe on a process that hopefully can result in getting the QSA signed at the end of the year.

The Section 7 process that I talked about has a 135-day time-frame associated with it in consultation with the Fish and Wildlife Service. By initiating consultation formally this week, that 135 days would be completed toward the end of November.

We believe if we can get to an acceptable set of conservation measures with the Service, that that will open the door for the ESA compliance to be achieved and the Quantification Settlement Agreement to be implemented.

Ms. SOLIS. One last issue here is also my understanding that this bill would essentially codify the Department of Interior's study and directs the government to abide by its recommendation without even seeing the study and knowing what is in it.

Also, the bill waives the normal statute of limitations for people to file an appeal. Instead of the usual 1 year, it is going to be 90 days. I would like to get your response on that.

Mr. JOHNSON. That is a very complicated and controversial issue. As I stated earlier, the bill as a whole is still under review and I am unable to offer any specific responses as it relates to the various provisions.

Mr. CALVERT. Mr. Hunter.

Mr. HUNTER. I might, in asking my question, just address my colleague's concerns. The issue here is the folks from Imperial Valley, the farmers and the community because there are 140,000 people who live there, have been asked to transfer some of their water to your and my constituents because we are going to be short on water now that we have to live within our means because the other basin States, Nevada, Arizona, et cetera, are forcing us to take our rightful share of water under the water settlement agreement, which is less than what we are using.

We are using 5.2 million acre-feet. We are going to have to go down to 4.4. So, your representatives have turned to our people who live in Imperial Valley and saying, can we have some of that agriculture water.

We think we know how you can get it. You can get it by doing more effective irrigation on your fields, so instead of running all your water across your alfalfa field and having a lot of wastewater at the end of the field which goes into the Salton Sea, you will now have a pump back system that pumps that water back over the fields so you won't use as much irrigation water. And if we help you pay for those water conservation measures, maybe we can have some of the water that you have saved.

That is what this deal that my constituents have signed does. Your representatives and your water agencies have signed it and it will now deliver drinking water to your constituents.

The problem is, as we are going down the line with this deal, the Fish and Wildlife and State Fish and Game stepped in and said, "Wait a minute. If you don't send this wastewater that you have been running off these fields into the Salton Sea, the Salton Sea will go down."

So now my farmers and the people in my valley are being told, "We said we would sue you if you didn't conserve. Now we are telling you that you may be sued under wildlife statutes if you do conserve. So, whichever way you go, you are going to be liable."

So, this is a business deal in which our people say, "Wait a minute. We signed this thing saying we wouldn't have to turn our farms back to desert because the easiest way out here is simply to not put any water on the crops and simply not have crops and let it go back to cactus for the people in my community."

They have a contract that all parties have signed that say this water conservation will be done with on-farm conservation, like a water pump-back system. That is how we come up with the extra water to send to your constituents.

Now, the problem is the Salton Sea was a problem that we were going to solve with Federal and State dollars. Mr. Johnson has pointed out that it is going to be a complicated and expensive process.

We don't have the answers. He doesn't have the answers. I think the essence of his statement is that he doesn't have the answers. We have a few months left to make this water transfer work so

that your constituents can have drinking water and we are running out of time.

In the end, all of this resolves down, Mr. Johnson, does it not, to somebody writing a check or some various entities writing a check. If we have a billion dollar bill to save the Salton Sea, the Federal Government and State government are going to have to write checks for \$500 million a piece or whatever the split is.

What has happened is the Federal Government has said, "Wait a minute. If we can make the water transfer write the check on the basis that it is related to the water transfer, every dime that they write we won't have to write."

Now, my intuition is that that is one reason there has been such a slow process here in getting a response from the Federal Government. It could be that if we put \$100 million into a mitigation process, maybe we make a big offsite marsh for the pelicans and the other endangered species and it costs \$100 million or \$200 million and that is paid for by the people of Imperial Valley and by your constituents who are water users, the Federal Government won't have to pay then. If we come up with an analysis that says it is going to cost \$3 billion to save the Salton Sea, our \$200 million marsh or \$100 million marsh may be the total mitigation project for the sea.

So, the question is: Who pays the bill here? What I am saying is what we do when we have a practical problem and that says, we don't know how to save the sea yet. We don't know how big the bill is going to be. My constituents who signed this contract said if this thing comes out of fallowing, and that means turning our land back to desert, we are not going to do it. And they have a right not to do it and they have also said, "If we get sued for billions of dollars for the little money we are going to make on the transfer, the contract is void. That is in the contract."

So, Mr. Johnson, isn't it true that the discovery, and you have gone through this many times with Mr. Calvert, the discovery of a new endangered species can end up with multi-hundred million dollar exposure for whatever agency or whatever private party is involved in changing the habitat for that particular species. That is a fact of life under endangered species, is it not?

Mr. JOHNSON. It depends on the process.

Mr. HUNTER. But let me say this: It can involve \$100 million liabilities, can it not?

Mr. JOHNSON. I would not want to speculate on the amount.

Mr. HUNTER. It has involved \$100 million-plus projects that have had to be done to save endangered species, has it not, the utilization of the Endangered Species Act?

Mr. JOHNSON. I am not aware of specific ESA issues that have required that kind of investment to address. It is possible, but I have not personal.

Mr. HUNTER. What you are saying is that the amount of exposure or liability is unknown, is it not?

Mr. JOHNSON. That is true. There are always unknowns.

Mr. HUNTER. So, my question to you is, if you have the problem that we have and that is we have to make this water transfer work and it is a contract and you are asking one contracting party to sign up for something which could give them unknown exposure at

a future date and they have a specific clause that says if this exposure goes above \$20 million, the contract is over and Ms. Solis' and Mrs. Napolitano's and all the rest of the California delegation's constituents stop getting that extra water they were getting.

Yet, that exposure that is unknown has never been fixed or clarified. Does it make sense to maintain that contract and isn't that a dangerous thing for the State of California and for the water users to be involved in?

Mr. JOHNSON. Under the Section 10 process, there are assurances that could be received.

Mr. HUNTER. For future endangered species?

Mr. JOHNSON. Species that are not listed as endangered can have habitat conservation plans developed under an HCP. Now, we have not been successful, obviously, the IID process has not been successful in coming up with anything there.

Mr. HUNTER. So, the point is, if we want certainty so that we can make this deal go forward, you can't offer us certainty at this time, can you, in terms of how much is going to have to be paid?

Mr. JOHNSON. Certainty is always nice, but certainty in dealing with these issues is never there.

Mr. HUNTER. Well, that is my point.

Mr. JOHNSON. Every activity that we undertake in water management has a certain amount of uncertainty.

Mr. HUNTER. So, let me follow that. So, the \$20 million exposure limit that is written into the contract for the people of Imperial Valley who say if we go above \$20 million, we are not going to bankrupt ourselves to move water to the cities.

So, the point is that there is a possibility that that \$20 million level is going to be breached, is there not?

Mr. JOHNSON. There is a possibility, yes.

Mr. HUNTER. Well, for the people of California who need the certainty of a continuing water transfer, that doesn't bode well, does it, this uncertainty.

Mr. JOHNSON. Well, I think we would all prefer as much certainty as we can get.

Mr. HUNTER. Well, that is what my bill does.

Mr. JOHNSON. Every activity that we carry out related to water management has uncertainty associated with it as it relates to the Endangered Species Act.

Mr. HUNTER. But every contract for water transfer, and this a contract between contracting parties, doesn't manifest uncertainty. So, I guess my question is, what I do, as I say, in a common sense way, we have to have a certainty. We have to have some certainty.

Once we pay this water in for the transfer, this transfer is going to carry a certain amount of burden and that is it and then we will figure out how to save the sea and we will use Federal and State money. You start with that first \$50 million, but you can't come back later for a couple of hundred million or a billion more dollars. And so we have a certainty.

Now, in light of how crucial this is for the people of California, don't you think it is good to have some certainty either fixed by you — you said you could deliver a certain degree of certainty — or fixed by statute.

Mr. JOHNSON. Under Section 10, a certain degree of assurances can be obtained from the Fish and Wildlife Service under a Habitat Conservation Plan. I don't think that I was saying that we can provide through an administrative process under Section 7, complete certainty as it relates to future listings.

Mr. HUNTER. And thereby future expenses.

Mr. CALVERT. The gentleman's time has expired.

Mr. HUNTER. Thank you, Mr. Chairman.

Mr. CALVERT. Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. I am enjoying listening to a lot of the dialog because I learn a little bit more every time.

There are some serious questions that I have. As the Chairman has stated, this is a very important step for CalFed. Certainly I want to see the 4.4 move forward, but not to the point where it is going to leave the taxpayer liable if the \$50 million write-off for the water agencies does not cover the ESA mitigation or the ability for, whether it is restoration or whether it is the setting up of a new area, whatever.

Then it goes back either to the general public or the California taxpayers or the Federal Government. To me that is one of those important issues that, while it may sound good in the beginning, it may not help in the end.

The other is, was there talk at La Quinta on a discovery of a large grown water reservoir beneath Imperial County and how would that fit into the relief of the farmers?

Mr. JOHNSON. We have engaged Lawrence Livermore. They have suggested that there may be a significant aquifer that could be tapped that would supply a water supply to extend the life of the Salton Sea.

That is uncertain. There were some studies a number of years ago that said that there is a possibility. One of the things that we are going to have Lawrence Livermore do is develop some more data on that.

We just don't know if that resource is in fact there, but we are willing to take some additional looks at that and see if there is something there that would be helpful.

Mrs. NAPOLITANO. Well, Mr. Johnson, given the fact that we are facing some very tight timeframes in California for the 4.4 Plan, how quickly can you get some information or how much can we try to expedite finding information and reporting it to this body so that we are then able to move and have some assurances of whether or not there is going to be adequate water available for California in the year 2016?

Mr. JOHNSON. I don't know how long it would take to verify that issue associated with ground water. I would feel fairly comfortable saying that we will not have that kind of data before the end of the year.

Mrs. NAPOLITANO. In other words, it could be that there may be this data that does verify that there is adequate water. Wouldn't that be a solution, so to speak, to this particular bill?

Mr. JOHNSON. It would help. It would also help as it relates to the long-term restoration studies that we have ongoing with the Salton Sea authority.

Mrs. NAPOLITANO. No, that is another area. I am not sure how much area Mr. Hunter represents versus Mrs. Bono. For many years I knew the Salton Sea. I have been in California many years. It used to be a very thriving tourist attraction. I am hoping that somewhere along the line we will be able to, because the reports that I have read indicate that within 40 years it is going to be dead or so saline that nothing will live in it. I mean there will be very minimal habitat. I think you alluded to that. You mentioned that there may be four species left.

Mr. JOHNSON. That is true. The sea is deteriorating and at some point it will become hyper-saline. The timeframe, the estimate of the timeframe for when that will occur, is uncertain.

When it becomes hyper-saline, you lose the fishery resource and that has impacts on the fish-eating birds that use the Salton Sea. There would still be, even under a hyper-saline condition, there still would be some wildlife that would exist around the sea. You would lose the resource for the fish-eating birds.

Mrs. NAPOLITANO. Another question, Mr. Johnson, do you have any idea what the estimated costs would be to both the State and Federal Government to restore that sea?

Mr. JOHNSON. We are in the process of trying to refine our estimates and are hoping to, in our Draft Alternatives Report, be able to display some ranges of costs.

Mrs. NAPOLITANO. Do you have any ballpark fig?

Mr. JOHNSON. I think that under all scenarios restoration costs are going to be quite high. I think a \$1 billion was mentioned earlier. Certainly costs under many of the scenarios will be that high.

Mrs. NAPOLITANO. Will that ensure full restoration or would it still eventually be totally saline?

Mr. JOHNSON. Those costs would maintain salinity at current levels.

Mrs. NAPOLITANO. Is there a precedent in law for the Federal Government to bear the large share of the mitigation costs?

Mr. JOHNSON. You know, I am not familiar with all of the ESA mitigation activities that have occurred. Certainly we have had Federal projects where we did bear mitigation costs.

Mrs. NAPOLITANO. But of this magnitude?

Mr. JOHNSON. I am not aware of any of that magnitude.

Mrs. NAPOLITANO. There was the Salton Sea Restoration Plan that the Interior Department, and I know you are with the Bureau of Reclamation, apparently had given to Congress and there was some follow-up. Have you any idea or can you comment on whether we might see those replied to?

Mr. JOHNSON. See what again?

Mrs. NAPOLITANO. It was the Salton Sea Restoration Plan. It was by the Interior Department.

Mr. JOHNSON. Yes, the January 2000 report?

Mrs. NAPOLITANO. Right.

Mr. JOHNSON. Yes. That did display a number of alternatives from moving water in and out from the ocean, in-sea evaporation, enhanced evaporation systems that remove salinity. All of the alternatives that were considered in that report assumed the use of some water supply to maintain the input levels.

In fact, we went so far as to actually consider the use of flood flows on the Colorado River. That was a very, very controversial proposal. We received a lot of comments and in fact decided, consistent with the requirements of the legislation, that we couldn't show that in our report. That is really what has taken us back to the drawing board and developing alternatives that don't rely on additional water supplies.

Mrs. NAPOLITANO. A couple of years back I remember visiting the area and talking to one of the entities that wanted to provide the Federal Government the means of being able to clean the water that is going back into the Salton Sea from the adjacent agriculture areas because they said that a lot of contaminants were going in and that was making it even worse.

What has ever happened to that?

Mr. JOHNSON. Well, we have done some demonstration wetlands programs in cooperation with the Imperial Irrigation District and EPA. In fact, we have put some demonstration wetlands in place, the Brawley Wetlands. Those wetlands were doing some monitoring to see how successful they are in removing nutrients and in fact, we think that does offer an approach to taking nutrients out.

Mr. HUNTER. Mr. Johnson, if the gentle lady would yield —

Mrs. NAPOLITANO. Certainly.

Mr. HUNTER. What she is talking about is something different. You are talking about the Brawley Wetlands that Desert Wildlife is doing where they use Bullrushes to pull back stuff out of the water in New River.

This was U.S. Filter.

Mrs. NAPOLITANO. That is right.

Mr. HUNTER. It has this plan and they have a lot of technology that you can basically filter New River water that goes into the sea, filter the salt out of there, the bad stuff out for about \$250 and acre-foot, with their osmosis process. They are getting a little more efficient all the time, but it is still fairly expensive.

Mrs. NAPOLITANO. Thank you. Reclaiming my time, Mr. Hunter, yes, that is precisely what I was talking about.

Mr. CALVERT. If the gentle lady could wrap this one up, we will move to Mr. Osborne.

Mrs. NAPOLITANO. Thank you very much, Mr. Chairman. I will wait for the next round.

Mr. CALVERT. Thank you. Mr. Osborne.

Mr. OSBORNE. Thank you. I don't have great knowledge of this issue, but my understanding is that roughly 300,000 acre-feet of water are being diverted to San Diego primarily through increased agriculture efficiency.

What my question is, exactly how many acre-feet of water going into the Salton Sea do you people feel is necessary to at least maintain the status quo?

Mr. JOHNSON. There is no amount of water. I mean the sea is a terminal body of water and even with the current inflow, even with no reduction from the water transfers, the deterioration of the sea will occur.

So, that alone cannot solve the deterioration problems associated with the sea. It does make it easier when there is additional inflows, and less expensive to develop alternatives that remove

salt. But that by itself will not allow the salinity levels to be maintained.

Mr. OSBORNE. It seems to me that your answers are rather vague. I understand you need to be cautious, but when Mr. Hunter asked earlier if there were any cases where the Endangered Species Act had had any significant impact in terms of dollars and cents, I think everyone here knows about the Klamath Basin situation which was about \$150 million in 1 year. That was the Endangered Species Act.

The problem that people have across the country is to understand what they have to do. I can understand the growing frustration here that at some point somebody has to make a decision and they can't just keep sitting there and studying the issue because time moves on.

You can have farmers wiped out. You can have communities severely strapped and handicapped. You may not ever have certainty. You may not have a perfect world. But at some point you have to say, well, this is the best guess we can make and let's move forward.

I don't know if Mr. Hunter's plan is the whole answer, but at least it looks like he is trying to arrive at some solution. Right now I don't hear anybody else that even has a plan. That is my concern, the lack of assertiveness or aggressiveness on the part of Federal agencies to make the world work.

Mr. JOHNSON. I am not expressing opposition to Congressman Hunter's plan. We are just not able to offer detailed comments, but we are open to legislation that will solve this problem. I hope I didn't misstate that. I need to also emphasize, we are working as hard as we can to find solutions for the QSA as well as solutions for the Salton Sea.

They are separate issues. We believe they have to be dealt with separately. We do have an administrative process in place, the Section 7 consultation process, that we are hopeful can get us there in terms of ESA compliance by the end of this year. I guess I need to reemphasize that we are not opposing the legislation.

Mr. CALVERT. I thank the gentleman.

Mrs. Bono.

Mrs. BONO. Thank you, Mr. Chairman. First, I just want to say it is freezing in here. My teeth are chattering.

Mr. CALVERT. You are skinnier than most of us.

Mrs. BONO. I just know that we are not in California any more and we can actually afford the air conditioning here.

I want to thank Mr. Johnson for being here. We have pretty much done this thing before, time and time again. I feel like we are chasing our tails round and round.

I was wondering if you could comment on this letter that we have, and I believe it has been submitted for the record. If not, I would like to ask unanimous consent to submit it for the record, a letter from the Coachella Valley Association of governments.

Mr. CALVERT. Without objection.

[The information referred to follows:]


COACHELLA VALLEY ASSOCIATION of GOVERNMENTS

Blythe * Cathedral City * Coachella * Desert Hot Springs * Indian Wells * Indio * La Quinta * Palm Desert
 Palm Springs * Rancho Mirage * County of Riverside * Agua Caliente Band of Cahuilla Indians
 Cabazon Band of Mission Indians * Torres Martinez Desert Cahuilla Indians

July 20, 2002

To: Concerned Parties regarding HR 5123

The Energy and Environment Committee of the Coachella Valley Association of Governments (CVAG) is composed of a city council representative from each of the fourteen member jurisdictions indicated above on this letterhead.

At its July 18th meeting, the Energy and Environment Committee unanimously voted to **oppose HR 5123 (Hunter Bill)**. I have enclosed a copy of a Resolution of Concern previously enacted by CVAG which expresses our concern about the San Diego County Water Authority/Imperial Irrigation District (SDCWA/IID) Water Transfer with regard to the Salton Sea. In addition to the concerns outlined in that Resolution, our opposition to the Hunter Bill also includes the following:

- ◆ the Endangered Species Act must not be set aside by legislative fiat.
- ◆ the mitigation for the environmental damage has not been quantified and the damage to the Salton Sea, our economy and our environment could be far in excess of the \$110,000,000, outlined in HR 5123. (Please note the damage and after-the-fact mitigation costs of Owens Lake in California or the Aral Sea in Russia.)
- ◆ the shortening of traditional time-lines for legal challenge that are written into the Hunter Bill are not consistent with fairness nor justice.
- ◆ We understand the need to meet the California 4.4 Plan for Colorado River water use, *however, we believe that the SDCWA/IID water transfer may not be an inherently crucial component to meet the 4.4 million acre foot California allotment and could be separated from the other components of the Quantification Settlement Agreement thus providing the necessary time to allow more careful analysis of its impacts.*
- ◆ We find it odd and an example of flagrant 'special interest legislation', *that at time when California is being required to cut its historic Colorado River water use, HR 5123 proposes to significantly facilitate allocating Class 3 Priority Rights to an agency which has no present rights to Colorado River water!* And,
- ◆ the legislation proposes to facilitate this **four to five billion dollar water sale** by sidestepping the environmental process; making the Federal government responsible for environmental impacts, and mandating a price tag for project mitigation which we deem arguably low, and the majority of which is being paid by the Federal tax payer.

Yours very truly,

Buford Crites, Chair
 Energy and Environment Committee

73710 Fred Waring Drive, Suite 200 * Palm Desert, CA 92260 * Phone (760) 346-1127 * FAX (760) 340-5848 * cvag@cvag.org

Mrs. BONO. Thank you. This is a group that is formed of ten municipalities, the County of Riverside and three local tribes. They have a letter here that opposes the Hunter legislation. It was a unanimous vote.

In their letter, they have two comments I would like you to comment on. The first is, they write: "We understand the need to meet the California 4.4 Plan for Colorado River water use, however, we believe that the IID water transfer may not be an inherently crucial component to meet the 4.4 million acre-foot California allotment and it could be separated from the other components of the

QSA, thus providing the necessary time to allow more careful analysis of its impacts.”

Could you please comment on that?

Mr. JOHNSON. I think the water transfer is an irreplaceable piece of the California 4.4 plan. There is no other entity with large enough quantities of water to be able to accommodate the reductions that are required in this 300,000 acre-feet is absolutely a critical piece.

Mrs. BONO. You disagree with their statement that it could be separated.

The second comment of theirs: “We find it odd and an example of flagrant ‘special interest legislation’ that at a time when California is being required to cut its historic Colorado River water use, H.R. 5123 proposes to significantly facilitate allocating Class 3 Priority Rights to an agency which has no present rights to the Colorado River water.”

Can you comment on that?

Mr. JOHNSON. Well, I think that is part of the program here, to find how to move water to the urban area. Imperial Irrigation’s water right is a third priority under the seven party agreement. Yes, that water supply does get moved to the urban area. San Diego certainly has used Colorado River water for a long time as part of the metropolitan service area. They receive their water through their agreements with MET. So, to say they have not had rights to Colorado River water is probably not completely accurate.

Mrs. BONO. During your testimony you said the sea is deteriorating anyway. Would you agree, though, with the scientific feeling that over the past 1200 years that the Salton Sea has move often than not been actually filled with water?

Mr. JOHNSON. There has been over long periods of time, absolutely. It is true that the Colorado River —

Mrs. BONO. You can answer just yes.

Mr. JOHNSON. Yes, fine. Yes.

Mrs. BONO. You would agree?

Mr. JOHNSON. Yes, I would agree.

Mrs. BONO. It has been more often than not filled with water?

Mr. JOHNSON. Yes.

Mrs. BONO. Would you agree that last year we passed legislation that would grant the local water agencies permanent flowage easement into the Salton Sea?

Mr. JOHNSON. Associated with the Torres-Martinez Settlement Act.

Mrs. BONO. Yes, the Torres-Martinez Settlement Act. We gave them the permanent right to continue to flood the Salton Sea. Yet, you are saying it is deteriorating anyway. Is that a little bit of juxtaposition there? Are you contradicting yourself? I believe you are. You can say yes.

Mr. JOHNSON. Well, I don’t think I am. I think that irregardless of where those flows come to, certainly the districts have flowage easements with the Torres-Martinez, whether they had that or not, the sea is deteriorating gradually over time.

It is just a natural occurrence on a terminal body of water. Salt flows in. Evaporation occurs. Salinity increases.

Mrs. BONO. But, Mr. Johnson, you yourselves, I believe the Bureau of Rec and two administrations have sent mixed messages to the people of southern California and to my colleagues on the other side, too. I say, this is a resource that all of southern California can benefit from.

But you are saying in one breath the Salton Sea is going to die anyway. But then you are saying, but we are looking for solutions.

In my view, the truth is you think it is going to die and you are just reluctant to come out and say that. You can't have it both ways. Somebody has to say one or the other and you say them both. It is very frustrating.

Mr. JOHNSON. Let me qualify when I say the Salton Sea is going to die anyway. I say that in the context of the water transfer to make the point that the transfer shouldn't be held responsible for the deterioration of the sea because it is occurring anyway.

Mrs. BONO. But would you make the point that in Owens Valley the water transfer entirely created a dust problem?

Mr. JOHNSON. In the Owens Valley, yes.

Mrs. BONO. Would you make the point that careful public policy would have considered that at the point and addressed that situation proactively rather than 100 years later?

Mr. JOHNSON. Certainly.

Mrs. BONO. Then I would like to say that the Chairman mentioned that Duncan Hunter at least has something on the table, but to me we are not thinking this through clearly enough. We are slapping this out there and trying to get it through and we really need people to come to the table.

I have to applaud Senator Feinstein for getting everybody to the table to address all of the possible consequences of the sea.

If I might, and I hope I am not breaking protocol, I would like to ask a question of my colleague, Duncan Hunter. I know he is not one to shy away from the microphone.

Mr. HUNTER. I am ready.

Mrs. BONO. Wouldn't you agree, though you talk constantly, and I care, too, about the economic health of the Imperial Valley, but won't they also suffer if they have a deterioration of air quality?

Mr. HUNTER. Yes, and that is why the provision that I put in which is one of the most extensive provisions in our bill that provides for and mandates that you are going to have groundcover planted on that exposed shoreline.

I think we can make lemonade out of a lemon here by using that ground cover, extending the present wildlife refugees along the sea and making that groundcover and those marshes and that upland planting part of those existing refugees and make it part of the recreation area.

I very strongly support saving the sea. I think we can do it. My only point is, and I think Mr. Johnson made this point, nobody has an answer and yet for all of our people who need to drink water, we have to have this thing done. In the end, this is going to be a matter of who writes checks. Nobody is going to be down there with a bulldozer doing a project. We are going to write checks.

Mrs. BONO. Could I reclaim my time here?

Mr. HUNTER. Only if I can put you down as undecided on my bill.

Mrs. BONO. Actually, I am happy to continue to work with you if we can address the air quality concerns and how in fact we will address them now rather than later. I am happy to continue to work with you on it. But I think we are being very shortsighted if we don't do that.

Mr. HUNTER. I would be happy to let you write that section.

Ms. SOLIS. Would the gentlewoman yield for a moment?

Mrs. BONO. Yes.

Ms. SOLIS. Thank you. On Page 14 of the bill, under Section C, "Any mitigation measures the Secretary considers necessary for the protection of fish and wildlife resources," couldn't there be an addition there where we could look at potential air quality and health effects there which you are bringing up?

Mrs. BONO. The gentle lady brings up an excellent point. That is my hope. I believe that specifying that we are planning marshes is far too narrow and that we need to address in a much bigger way than we are, so I think she brings an excellent point.

Ms. SOLIS. Absolutely. I would just agree that while we know we have an urgency to get water down south, there is also the necessity of looking at the quality of life for individuals that still have to live there.

Mr. CALVERT. The gentle lady's time has expired.

Mrs. BONO. thank you, Mr. Chairman.

Mr. CALVERT. We are going to have a vote shortly, so I am going to move this is on. One last comment, then I will excuse this panel and invite our next panel.

I would certainly compliment Senator Feinstein for the work that she has done regarding this issue. However, I would just like to point out to the gentle lady from Palm Springs that we have had a number of hearings on the Colorado River and the Salton Sea and unlike the Senate which has had none.

So, we have been working on this for some time. I thank the gentlemen. We will ask our next panel to come forward.

Mr. John Carter, General Counsel, Imperial Irrigation District; Mr. Tom Kirk, Executive Director, Salton Sea Authority; Mr. Dennis Underwood, Vice President for Colorado River Matters, Metropolitan Water District of Southern California; Mr. Tom Levy, General Manager and Chief Engineer of the Coachella Valley Water District; and Bill Snape, Vice President for Law and Litigation, Defenders of Wildlife.

We are going to stick to the 5-minute rule for now on because we are running out of time here. I will first recognize Mr. Carter, the general counsel for the Imperial Irrigation District.

**STATEMENT OF JOHN CARTER, GENERAL COUNSEL,
IMPERIAL IRRIGATION DISTRICT;**

Mr. CARTER. Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony at this important hearing on H.R. 5123. I have submitted written testimony and as that it be included in the record.

Mr. CALVERT. Without objection.

Mr. CARTER. The Imperial Irrigation District supports H.R. 5123 because it would ensure timely implementation of the quantification settlement agreement and provide the resources and certainty

necessary to address environmental concerns associated with the Salton Sea.

IID commends Representative Hunter for his tireless efforts on behalf of IID and the people of the Imperial Valley. We look forward to working with him and the Subcommittee to make any refinements that might be necessary to.

I would like to briefly summarize my written testimony. First, I want to make it very clear that IID remains committed to the historic IID San Diego County Water Authority, Water Conservation and Transfer agreement, the Quantification Settlement Agreement and the California 4.4 plan.

As you heard earlier, very eloquently in my opinion, from Congress Hunter, 11 months of almost daily negotiations with the State and Federal wildlife agencies over the Salton Sea endangered species issue has not resulted in a permit able mitigation plan.

In addition to the over \$10 million that IID alone has spent in process costs dealing with these transfer issues, IID has spent an additional \$1 million just for these negotiations. This impasse seriously jeopardizes the water transfer and the special surplus water that could be available to urban southern California for the next 15 years.

Failure to implement the transfers by the end of this year will likely result in a water crisis in California that would pale in comparison to last year's power crisis.

In passing the 1998 Salton Sea Reclamation Act, Congress encouraged efficiency-based water transfers and required the government to assume reduced inflows resulting from those measures.

Efficiency conservation funded by our urban partners No. 1 allows the Imperial Valley farmers to grow the same crops while using less water. It enhances the Imperial Valley economy by providing new jobs in an area that has the highest unemployment in the State and it increases local income.

It also complies with State and Federal goals to conserve water whenever possible. As a result of the Salton Sea problem that has been discussed earlier today and in past hearings, many have suggested that IID farmers merely fallow their productive farmland to make water available for transfer and to provide for additional water to the Salton Sea.

If that was done, as much as 75,000 acres of productive farmland would be taken out of production, covering over 110 square miles in Imperial Valley. IID would lose the benefit of increased jobs and increased economic stimulus. In fact, a fallowing program would result in a loss of thousands of jobs and hundreds of millions of dollars of lost income.

H.R. 5123 promotes efficiency-based conservation thereby respecting the terms of the water transfer agreements. It is consistent with Federal goals encouraging water conservation. It recognizes that the 1998 Act intended that the water transfer should not bear the cost of restoring the Salton Sea.

Finally, it ensures timely implementation of the water transfers and the other benefits included in the QSA.

In conclusion, IID stands ready to honor its agreements and to go forward with the conservation and transfer programs and its

agreement to cap its entitlement as soon as the Salton Sea issue can be resolved.

Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentleman.

[The prepared statement of Mr. Carter follows:]

Statement of John P. Carter, General Counsel, Imperial Irrigation District

IID S SUPPORT OF HR 5123

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to provide testimony at this important hearing on HR 5123. The Imperial Irrigation District (IID) supports HR 5123 because it would ensure timely implementation of the Quantification Settlement Agreement and provide the resources and certainty necessary to address environmental concerns associated with the Salton Sea. IID commends Representative Hunter for his tireless efforts on behalf of the people of the Imperial Valley, and we look forward to working with him and the Subcommittee to refine HR 5123.

As you are aware, HR 5123 is an important part of the effort to implement the California Colorado River Water Use Plan. In attempting to implement the California Plan the state is facing some very serious water management questions. IID has been working closely with the Department of the Interior and the State of California so as to bring success to that effort. But, as will be explained below, a number of factors have made this an exceedingly difficult challenge. The points we wish to make in this testimony are summarized as follows:

- IID committed to the QSA water transfers on the basis of carrying out efficiency conservation within the district. IID remains committed to that efficiency conservation approach.
- Efficiency conservation is good for the Imperial Valley economy and complies with state and federal goals to conserve water whenever possible.
- A Salton Sea reclamation plan was to have been proposed and implemented prior to the implementation of the QSA water transfers. Failure to follow that approach now places the burden of Salton Sea endangered species problems on the back of the QSA water transfers.
- In passing the 1998 Salton Sea Reclamation Act Congress encouraged efficiency-based water transfers and required the government to assume reduced inflows in developing reclamation alternatives.
- Forcing IID to adopt a long-term fallowing program so as to transfer water to the urban area and maintain baseline inflows to the Salton Sea places an inappropriate burden on the people of the Imperial Valley and is therefore unacceptable.
- All interested parties must now explore all viable alternatives for securing timely implementation of the QSA, including enactment of HR 5123.

Let me first make reference to testimony provided by IID before the California State Water Resources Control Board on November 14, 2001. That testimony (copy attached) provides helpful background information as to IID's water entitlement and IID's history of involvement in attempting to help its urban neighbors with their long-term water supply needs. In order to save time I will not restate that background information here.

IID S COMMITMENTS

Instead, and with that background in mind, it is important to begin with an understanding that IID has committed to a set of water transfer agreements and that IID remains committed to those agreements. In 1998 IID entered into an agreement with the San Diego County Water Authority (SDCWA) for the conservation and transfer of up to 200,000 acre-feet (af) of conserved water, with an option for another 100,000 af at IID's discretion. The IID-San Diego agreement was expressly based on the concept of efficiency conservation within IID. In other words, the basis of the agreement was that IID would use less water to farm the same amount of land—thus providing the urban area with a critical water supply while preserving and enhancing the agricultural economy of the Imperial Valley. The water conserved on-farm and within IID's delivery system would be transferred to the SDCWA, and the SDCWA would pay IID for the use of that water for a period of years.¹ Also,

¹Efficiency water conservation within IID, either on-farm or delivery system, will result in less runoff to the Salton Sea. The Sea is maintained by agricultural and municipal return flow from the Imperial, Coachella, and Mexicali valleys. By far, IID's agricultural return flow is the

within the terms of the IID–San Diego agreement IID made the commitment to devote \$32.4 million (2002 dollars) to mitigated present and future transfer-related environmental impacts at the Salton Sea and in the Imperial Valley.

Importantly, the IID–San Diego agreement was based on the notion that land fallowing would not be employed as a conservation method. In fact, the agreement expressly provided that in IID’s water conservation agreements with the farmers land fallowing would be prohibited. In addition to avoiding fallowing there were numerous other benefits of the IID–San Diego agreement. For example, the infusion of money into the Imperial Valley economy would stimulate business activity and create jobs in the county with the highest unemployment in the State of California. Also, the implementation of water conservation measures, both on-farm and delivery system, would increase IID’s water use efficiency ratings. Although IID’s water use efficiencies are very high, especially in comparison to other districts in this southwest region, others have claimed that IID does not use all of its water entitlement reasonably. Implementation of on-farm and delivery system improvements would resolve that issue.

The IID–San Diego agreement was truly a “win-win” arrangement. The southern California urban area was to obtain a much needed senior priority water supply for a period of up to 75 years, and IID and its farmers were to obtain the money necessary to implement more expensive water conservation measures, while at the same time enhancing the Imperial Valley economy. IID was committed to this arrangement in 1998 and it remains committed to this arrangement today.²

DEVELOPMENT OF QSA

What happened after 1998 is all part of the exceedingly complex history of events that has been on the one hand interesting but on the other hand very frustrating from IID’s perspective. Because of the long history of tension between IID, the Metropolitan Water District (MWD), and the Coachella Valley Water District (CVWD), it became clear that the IID–San Diego agreement could not be brought to fruition absent litigation or a broader settlement of differences among the four water-using agencies. As a result, and with the help of Secretary Babbitt, Deputy Secretary David Hayes, and California Department of Water Resources Director Tom Hannigan, the four agencies worked out an historic settlement agreement entitled the Quantification Settlement Agreement (QSA).

In October of 1999, IID, MWD, and CVWD agreed to Key Terms that would be the foundation for the QSA. The QSA obviously could not be executed in the absence of both state and federal environmental compliance, but the parties expressed their commitment to implement the QSA as a foundation of the development of the California Colorado Water Use Plan that envisioned the reduction of California’s Colorado River use down to 4.4 maf per year.

A cornerstone of the QSA is the agreement of the parties to quantify, for a period of years, the entitlements of IID and CVWD. That quantification goes hand-in-glove with the proposed water transfers by allowing authorities and interested parties to more easily verify and account for the water savings to be carried out as a part of the QSA. Another cornerstone of the QSA was resolution of some long-standing disputes between IID and CVWD. The QSA provides for the transfer from IID to CVWD, during the period of the QSA, a total of 100,000 af of conserved water. That agreement resulted in a decrease in the potential amount to be transferred to the SDCWA (down to a maximum of 200,000 af). Along with the lining of the All American Canal and other miscellaneous transactions, the QSA provides for a total of about 500,000 af of conserved water to be transferred from the agricultural sector (IID) to the MWD and CVWD service areas.

INTERIM SURPLUS GUIDELINES

One important consequence of the QSA Key Terms was the public demonstration that California was serious about addressing its overuse of Colorado River water. As a result, and with the cooperation and approval of all seven of the basin states, Secretary Babbitt adopted special operating guidelines for the operation of Lake Mead (January 2001 Interim Surplus Guidelines—ISG). The ISG provide for the release, over a fifteen year “California water diet” period, of special surplus water

most significant component of inflow into the Salton Sea. Any efficiency conservation within IID will result in a one-for-one impact on inflows to the Sea. In other words, each acre foot of water conserved within IID means one acre foot less flowing to the Salton Sea.

²In regard to price IID provided to the SDCWA pro-forma projections of the costs of the water conservation measures likely to be employed by IID and the Imperial Valley farmers. The SDCWA verified those cost projections and the cost per acre foot for the conserved water was thereafter agreed to. That cost is around \$250 per acre foot in the early years of the transfer agreement.

from Lake Mead primarily for the benefit of the southern California and southern Nevada urban areas. In other words, the availability of this special surplus water is what will allow California the time within which to implement the QSA, transfer conserved water from the agricultural area to the urban area, and move toward an overall water use of 4.4 maf, which is California's basic Colorado River water entitlement.³

In the context of this broader picture of the QSA and the California Plan it is critical to appreciate the value of the ISG special surplus water that is currently being provided through MWD to the 17 million people within the MWD service area. The ISG do not impose any cost on MWD for the special surplus water. As a result, if carried out over the 15 year ISG period the present value of the special surplus water to MWD is approximately \$1.8 billion. This significant benefit is largely a reflection of the largess of the Secretary and the other six basin states.⁴

In crafting the terms of the ISG the Secretary and the other six basin states nevertheless expressed distrust of California's commitment to reduce its use to 4.4 maf per year. As a consequence, the ISG provide that if certain transfer benchmarks are not met, and if the QSA is not executed by December 31, 2002, the special surplus water provisions in the ISG will be suspended and a more conservative method of operating Lake Mead will be imposed. Stated differently, if the California parties cannot bring about the execution of the QSA by the end of this year, the benefits of the ISG will be suspended and California will be facing some very serious water supply challenges.

CONSTRAINTS ON THE TRANSFERS—THE SALTON SEA

With all of this background in mind, maybe one would be inclined to say: "ok, so let's move water from the agricultural sector to the urban sector—what's so difficult about that?" The answer is the Salton Sea. Although IID is very familiar with the Salton Sea, others in California and around the nation are much less familiar. As a result, it simply was not appreciated by many interested parties, at the time of the IID-San Diego agreement or at the time of the development of the QSA Key Terms, that the Salton Sea would present such a huge point of difficulty for these water transfers. This has become particularly clear during the proceedings before the California State Water Resources Control Board (SWRCB) where the QSA transfers have been submitted for approval.

As you are aware, in 1998 Congress addressed the possible reclamation of the Salton Sea by directing the completion of certain studies and reports as a function of the Salton Sea Reclamation Act of 1998 (P.L. 105-372). Although there are many points of motivation behind the 1998 Act, one key point is that the Salton Sea has become an important component of the Pacific Flyway. As explained in the SWRCB proceedings, because urban southern California has eliminated most of its original wetlands and waterways the Salton Sea has become important substitute habitat. During much of the year many species of birds depend on the habitat of the Sea as they carry out annual migrations or as they move from nesting places to feeding places.

The magnifying glass of attention focused on the Sea has brought to light that it is less polluted than most people feared, that it is an exceedingly productive fishery, and that it has many characteristics that were misunderstood over the years on the basis of misinformation. However, the SWRCB proceeding also verified that the Sea is in a state of natural decline that is consistent with how the Sea has been filled by flooding events and then depleted by evaporation over eons of time. Since the Sea has no outlet, and no source of fresh water other than agricultural and municipal return flows, the salinity of the Sea will increase over time until the fishery is lost and the birds move on to other habitats. As noted before the SWRCB, some

³The ISG expressly do not guarantee the delivery of this water during the 15 year transition period. Instead, the guidelines are tied to reservoir elevations and the overall hydrology of the system. In other words, if Lake Mead stays relatively full, the special surplus water will be provided to MWD. However, if the reservoir goes below certain elevation levels the special surplus water is reduced in a step-down fashion. Because of the prolonged drought in the Colorado River basin it is possible that the self-executing provisions of the ISG will cut off most of the special surplus water deliveries to MWD regardless as to whether the QSA is executed and implemented.

⁴Although California does not contribute any water to the Colorado River it has more of an entitlement to the river than any other state. For example, the State of Colorado, where about 70% of the river water originates, has a smaller entitlement than California. These facts tend to support a psychological perspective that is not always in California's favor. Thus, the terms of the ISG represent a huge victory for the California urban area—but that victory is tied to successful implementation of the QSA.

fish species will likely be eliminated within 13 years, and the tilapia (the most salt-tolerant) will likely be eliminated by 2023.

It is in the face of this declining habitat, and the lack of a long-term Salton Sea reclamation program, that the QSA water transfers intersected with the Salton Sea. Facing the need for endangered species permits from both the federal and state governments, and facing the allegation that the QSA transfers would accelerate the decline of the Salton Sea, the QSA parties and the state and federal agencies set about the process of trying to obtain Endangered Species Act (ESA) and California Endangered Species Act (CESA) compliance to allow the QSA transfers to proceed. That effort has essentially been a failure, and has therefore caused many parties to suggest a radically different approach to the QSA water transfers that would result in enormous socio-economic impacts on the people of the Imperial Valley.

SALTON SEA RECLAMATION ACT OF 1998

As you are aware, in 1998 Congress addressed the possible reclamation of the Salton Sea by directing the completion of certain studies and reports as a function of the Salton Sea Reclamation Act of 1998 (P.L. 105-372). Although there are many points of motivation behind the 1998 Act, one key point is that the Salton Sea has become an important component of the Pacific Flyway. As explained in the SWRCB proceedings, because urban southern California has eliminated most of its original wetlands and waterways the Salton Sea has become, in effect, southern California's mitigation bank.

It is important to emphasize that the 1998 Salton Sea Reclamation Act was intended to produce the foundation for a reclamation project that would precede the implementation of the QSA water transfers. In fact, in passing the 1998 Act Congress expressly recognized the importance of the water transfers and expressly recognized that the QSA transfers would impact the Salton Sea by reducing inflows. Section 101 (b) (3) of the 1998 Act provides as follows:

ASSUMPTIONS.—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

It is therefore clear that the Salton Sea reclamation program was to have unfolded in the context of reduced inflows to the Sea. Congress recognized, as did IID and the other QSA parties, that the water transfers were of paramount importance and that any Salton Sea reclamation program would simply have to be developed on the basis of assumed reduced inflows. Indeed, it bears repeating that such an assumption is now a part of the federal law.

EFFICIENCY-BASED CONSERVATION vs. FALLOWING

Nevertheless, as the state and federal wildlife agencies failed to approve mitigation plans for endangered species law compliance, and as we approached the ISG deadline of December 31, 2002, some interested parties began to ignore the terms of the 1998 Act and simply concluded that there was only one way to carry out the QSA transfers while maintaining inflows to the Sea—massive land fallowing within IID. This idea has now taken root within the environmental community, some members of the Salton Sea Authority, local water agencies in line to receive water from the transfers and ISG, and in some parts of the federal and state governments.

It is not necessary to devote a great deal of time to the conclusion that a large long-term land fallowing program is not in the best interest of IID or the Imperial Valley community. But it is important to emphasize that a program to create 300,000 af of water for transfer, and the additional water needed to provide mitigation inflows to the Salton Sea, would require the fallowing of about 75,000 acres of productive farmland. This amounts to about 110 square miles of land. Instead of providing for an infusion of jobs and economic stimulus into the local economy (as with efficiency conservation), land fallowing would result in a significant loss of jobs and significant third party impacts. The economic impact on the Imperial Valley would be the loss of thousands of jobs and hundreds of millions of dollars of lost local income.

IID also asserts that the main impact of the California Plan, and the need to reduce usage to 4.4 maf per year, is on junior water right holders within California as opposed to IID. Accordingly, one option is for the junior right holders to reduce their water uses in order to match their reliable water rights. IID suggests that if such agencies instead turn for help to a senior water right holder, like IID, it should not be on the basis of forcing reduced use (such as with fallowing) but should be on the basis of the creation of a new supply without a reduction in farming.

Nevertheless, for a period of time IID attempted to understand this shift in thinking toward fallowing and even went so far as to suggest that if certain protective actions were taken a land fallowing program might be given serious consideration. However, several factors have now demonstrated that this is not a viable path. For example, it has become clear that mitigation for impacts to people is exceedingly difficult to understand and accomplish, and in fact the national track record for such efforts is very poor. Also, it became abundantly clear that the urban water agencies and the State of California were unwilling to recognize the need to develop and fund a meaningful socio-economic impacts program for the Imperial Valley. Along with other factors, these influences have convinced IID and the Imperial Valley community that a long-term fallowing program is not a viable option. IID is unwilling to put the Imperial Valley at risk to benefit others.

HR 5123 PROMOTES EFFICIENCY-BASED CONSERVATION

This background brings us to the consideration of HR 5123. There are several components of HR 5123 that are consistent with IID's perspective regarding this whole water transfer matter. For example, HR 5123 reflects the notion that the Salton Sea reclamation program was to have been developed ahead of the QSA water transfers. Had that been done, the intersection of the transfers with the Salton Sea would have resulted in a much different analysis and much less of an endangered species compliance burden. Following this perspective, HR 5123 quantifies the contribution of the four water agencies and then provides environmental clearance for the water transfers (Section 4 (a) (2)). We see this as a positive recognition of the interplay between the 1998 Salton Sea Reclamation Act and the QSA water transfers.

Another example is that portion of HR 5123 (Section 4 (b)) that provides long-term assurances to the QSA parties. IID has long been on record that it will not accept long-term future risks under either the federal ESA or the state CESA. IID is attempting to be a good neighbor in facilitating the transfer of about 500,000 a/f to the MWD and CVWD service areas, but IID will not put itself in a position of risk in regard to future endangered species-related problems that might arise in the context of the QSA water transfers. HR 5123 attempts to address these important concerns.

While we will have some amendments to propose at the appropriate time these examples demonstrate that HR 5123 is oriented in the right direction and attempts to address some of IID's fundamental concerns. Most importantly, however, HR 5123 is aimed at supporting the foundational concept behind all of the QSA water transfers—efficiency conservation within IID. Unlike legislation currently under consideration in the California legislature, HR 5123 does not attempt to force IID and the Imperial Valley community to accept a long-term fallowing program. Rather, HR 5123 respects the terms of the IID–San Diego agreement, the provisions of the QSA Key Terms, and the requirements of the 1998 Salton Sea Reclamation Act.

DOI'S SECTION 7 EFFORTS

In the face of the impasse over the solutions to the Salton Sea, the Department of the Interior (DOI) has announced that it will attempt to comply with the Endangered Species Act for the QSA water transfers through the use of the Section 7 consultation provisions of the ESA. Under this approach, DOI and the Bureau of Reclamation, along with the four water agencies, will be exploring the feasibility of obtaining ESA and CESA compliance with a focus on a much smaller number of species. IID appreciates the efforts of Secretary Norton and Assistant Secretaries Raley and Manson in attempting to find innovative ways to bring about implementation of the QSA water transfers on the basis of our original contract commitment—efficiency conservation. At the same time, IID is not willing to assume the risk that additional mitigation costs might be imposed on IID as a result of future unforeseen circumstances (such as the listing of new species or the need for reconsultations). Either the federal government and/or the urban water agencies need to take responsibility for such risks.

Even though the Section 7 approach may be consistent with the orientation of HR 5123, we are also concerned that a Section 7 approach may only be a partial solution. The California Endangered Species Act imposes independent, and more stringent, regulatory requirements on the QSA water transfers. Thus, it will need to be determined if the State of California is willing to cooperate in facilitating the Section 7 approach by providing parallel clearance under California law.

CONCLUSION

In summary, let me explain that this has been a long and frustrating road for IID. On many occasions IID has been singled out as the entity that has not been cooperative enough or has otherwise made the process difficult. We strongly dis-

agree with these characterizations and assert that such characterizations merely reflect the attitude that IID has not been willing to compromise its principles solely for the benefit of others. As noted at the outset, IID remains committed to the IID-San Diego agreement, remains committed to the Key Terms for the QSA, and remains committed to the California Plan. IID has devoted countless hours to this process and has spent millions of dollars to ensure success without one dime in transfer revenue income. What IID will not do is sacrifice the Imperial Valley economy for the benefit of others.

IID also appreciates the difficult situation presented by the Salton Sea. But the issue here is really relatively simple: which is more important to California—the QSA water transfers and the success of the California Plan, or maintaining baseline inflows to the Salton Sea? What is clear is this—IID and the Imperial Valley community will not carry the burden for California to have both. IID will not approve a long-term land fallowing program to provide water to SDCWA, MWD and CVWD and at the same time maintain baseline inflows to the Salton Sea.⁵ That is not what Congress envisioned in 1998 and that would be contrary to what was enacted into federal law. If California desires to maintain inflows to the Salton Sea then it should work with the urban water agencies to figure out how to conserve water in the urban areas and/or develop new supplies that do not rely upon IID, thereby maintaining the status quo as to Salton Sea inflows.

In the end all IID can do is maintain its commitment to the win-win agreements it developed with its water agency partners. If the interested parties are also committed to those agreements then they will need to find a way to allow the efficiency conservation foundation of the QSA water transfers to be maintained. This may require significant political will on the part of the federal government and the State of California. In any event, IID stands ready to cooperate to implement the QSA water transfers as originally envisioned while continuing with the business of farming some of the most productive farmland in the world.

[An attachment, "Statement of the Imperial Irrigation District before the State Water Resources Control Board - November 14, 2001," has been retained in the Committee's official files.]

Mr. CALVERT. Mr. Kirk, you are recognized for 5 minutes.

STATEMENT OF TOM KIRK, EXECUTIVE DIRECTOR, SALTON SEA AUTHORITY

Mr. KIRK. Thank you, Mr. Chairman. Members. I am again, Tom Kirk, Executive Director of the Salton Sea Authority. I do want to note that in our written testimony that we ask you make a part of the record, we do have the CVAG letter as an attachment.

Both the Salton Sea Authority and CVAG are opposed to H.R. 5123 as written.

Mr. CALVERT. Without objection.

Mr. KIRK. H.R. 5123 does encourage, unfortunately, one of the most environmental damaging form of water transfer. One of the challenges we have is talking about conservation. Here when we talk about making farmers more efficient, unfortunately, we are talking about reducing inflows to the Salton Sea, as opposed to fallowing which would certainly reduce impacts on the Salton Sea and reduce environmental impacts, but certainly it has economic impacts.

This one to one type of water conservation for every acre-foot going to San Diego or outside of the Basin has an acre-foot impact on the Salton Sea. What that does is, of course, shrinks the Salton Sea and some of the problems that we have been talking about.

⁵It would be ludicrous to suggest that Imperial Valley farmers should fallow land so that their farming neighbors at CVWD can continue to farm or build more golf courses. That proposition is simply unacceptable. If water is to move from IID to CVWD, under the QSA or any other arrangement, such water will need to be developed via efficiency conservation within IID.

It would lower the elevation of the sea by 15 feet or more and increase salinity of the Salton Sea. So that ever-increasing march of salinity at the Salton Sea goes up dramatically under a water transfer.

The bill does provide some discussion about air quality impacts and we are thankful for that. However, we don't believe it goes far enough. It doesn't provide any funding and the type of mitigation proposed may not address all of the air quality impacts.

Additionally, the bill would cap environmental costs. We believe it is doing so arbitrarily. We would prefer to see the Endangered Species Act left the way it is and let the transaction address its environmental impacts just like developers do in southern California and just like other projects do across this country.

One positive is that it does indicate that any funding provided by the Act or in fact by the water districts could be applied to restoration, if restoration was authorized in the next 7 years.

Our concern is that with reduced inflows it probably makes restoration next to impossible or infeasible. One of the questions that was asked was, well how much does restoration cost?

Bob Johnson's folks and our folks and technical experts are working on that, but just to give you a sense, if you were to reduce inflows by several hundred thousand acre-feet, the cost of restoration would go up by over \$2 billion. So, there is a major impact on our ability to restore this vital resource if inflows drop significantly.

I don't want to take a lot of time to remind you of the importance of the Salton Sea. It sounds like most of you are somewhat familiar with the Salton Sea and some of you are painfully familiar with the Salton Sea.

I do want to note that the University of Redlands has done an excellent job of compiling a lot of good information. You have probably seen an atlas at your table. I want to note that Dr. Tim Krantz is here. You may have questions for him as well. He has put together that atlas that does describe the importance of the Salton Sea and the resources of the Salton Sea. I encourage you to take a look at it.

The other thing I will make available to you are the good things that we are doing at the Salton Sea thanks in many ways to your support.

As Bob Johnson indicated, we have good projects underway at the Salton Sea. The Salton Sea can be restored and saved and it contribute done in a very practical way, taking salt out of the Salton Sea through the use of solar evaporation ponds and there may be even some possibility for desalinization at the Salton Sea.

Like Bob Johnson, I am very interested in Lawrence Livermore's work on groundwater as well.

So, the water transfer could have major environmental impacts, could have health impacts, could have major impacts on our ability to restore the Salton Sea as it is currently constructed and planned to be implemented.

The strategy of providing fish ponds as offsite mitigation has been rejected by the wildlife agencies and as we heard at the State Water Resource Control Board hearings, there is significant concerns from the scientific community on that front as well.

I think when we think about the Salton Sea as it relates to this water transfer, the 300,000 acre-foot reduction of inflow, think of a smaller sea that is much saltier and probably not savable, you can't restore it.

I think about a couple of your late colleagues, Congressman Brown and Congressman Bono. I think about the vision they had for the Salton Sea. They not only wanted to protect the environment at the Salton Sea, they wanted to provide economic development opportunities and protect economic development opportunities.

I believe had they seen this vision for the Salton Sea, a smaller sea, major exposed salt flats and an inability to restore the Salton Sea, they would be horrified by it. I believe what they wanted to see was a full Salton Sea restored and protected providing environmental and economic values.

I look forward to working with this Subcommittee and others to improve H.R. 5123 and improve the water transfer in a way that protects the Salton Sea and provides us with an ability to fully save it.

Thank you very much.

[The prepared statement of Mr. Kirk follows:]

Statement of Tom Kirk, Executive Director, Salton Sea Authority

Introduction

Thank you for the invitation to participate in this important hearing. The Salton Sea Authority is pleased to offer our views on the legislation recently introduced by the Honorable Duncan Hunter, "Colorado River Quantification Settlement Facilitation Act", HR 5123.

I would like to thank Congressman Hunter, and all members of the Salton Sea Congressional Task Force for their continuing support of our efforts, and those of many federal agencies that are engaged in the effort to protect and restore the Salton Sea.

I am the Executive Director of the Salton Sea Authority. The Salton Sea Authority is an agency that was established in 1993 under the State of California's joint powers agency statutes. The Salton Sea Authority was formed to direct and coordinate actions related to improvement of water quality, stabilization of water elevation, and enhancement of recreational and economic potential of the Salton Sea. Notably, the Authority was formed by the four agencies with direct and significant stakes in the region and the health of the Salton Sea: Imperial Irrigation District, Imperial County, Coachella Valley Water District, and Riverside County. State legislation passed last year will allow the Torres Martinez Desert Cahuilla Tribe to be a full member of the Authority in the near future.

I was hired as the Authority's first and only Executive Director in late 1997. Since that time, I have managed and co-managed the Salton Sea Authority's environmental compliance, engineering, design, public outreach, governmental affairs, and scientific efforts.

In 1998, Congress enacted the Salton Sea Reclamation Act of 1998 (Public Law 105-372). The Act directed the Secretary of Interior to complete environmental and engineering studies to: (1) permit the continued use of the Salton Sea as a reservoir for irrigation drainage; (2) reduce and stabilize the overall salinity of the Sea; (3) stabilize the surface elevation of the Sea; (4) reclaim in the long term healthy fish and wildlife resources and their habitat; and (5) enhance the potential for recreational uses and economic development of the Salton Sea. Additionally, Congress has appropriated approximately twenty million dollars for restoration efforts. The State of California has contributed an additional five million dollars.

Over the last 4 years, the Salton Sea Authority, in conjunction with the United States Bureau of Reclamation, has engaged in extensive environmental studies and engineering designs with respect to potential restoration projects. As discussed more fully below, the conclusions reached in those studies is that the Sea is a rich, vital ecosystem of regional, national and international significance that can be restored and maintained indefinitely at a reasonable cost, if actions are not taken that significantly reduce water inflows to the Sea.

The Salton Sea Authority is not opposed to the quantification settlement agreement, nor necessarily, to the transfer of water from the Imperial Irrigation District (“IID”) to the San Diego County Water Authority (“SDCWA”) and the Coachella Valley Water District (“CVWD”) and/or the Metropolitan Water District of Southern California (“MWD”). The Salton Sea Authority understands the need and generally supports the implementation of the California 4.4 Plan that is designed to reduce California’s use of Colorado River Water.

However, the Salton Sea Authority is deeply concerned about the manner in which transfers are implemented, as some transfer options will have a devastating effect on the Salton Sea. Consequently, the Salton Sea Authority cannot support the Colorado River Quantification Settlement Facilitation Act in its current form, for the following reasons:

- The Act facilitates water transfers implemented in a manner (on-farm conservation) that would substantially reduce inflows into the Salton Sea and render maintenance and restoration of the Sea infeasible. The Sea would be lost.
- The \$110 million committed by the Legislation to fund mitigation projects would be insufficient to fund even minimally effective habitat conservation programs.
- The Act commits the Secretary of Interior to remediate the severe air quality impacts threatened by a receding Salton Sea, but provides no funding for those remediation efforts that could cost tens, or even hundreds, of millions of dollars.

In addition to the concerns raised by the Salton Sea Authority, the Coachella Valley Association of Governments¹ (CVAG) Energy and Environment Committee also voted to oppose H.R. 5123. In their attached letter, they express concerns about weakening the Endangered Species Act, insufficient funding for environmental mitigation, and shortening time lines for legal challenge. They also acknowledge the importance of furthering the California 4.4 plan, but they believe that the SDCWA/IID water transfer may not be a crucial component of that plan and that the transfer could be separated from the plan. The CVAG letter sums its opposition by stating that:

“the legislation proposes to facilitate this four to five billion dollar water sale by sidestepping the environmental process; making the Federal government responsible for environmental impacts, and mandating a price tag for project mitigation which we deem arguably low, and the majority of which is being paid by the Federal tax payer.”

Restoration of the Salton Sea

In order to understand the impact of the Facilitation Act on the Salton Sea, it is necessary to understand the basics of the Sea and its hydrology. Thanks in large part to the Salton Sea Restoration Act of 1998; the Authority has been able to undertake significant scientific study of the Sea. What has emerged is a Sea of much greater diversity and vitality than was initially appreciated².

The Salton Sea is California’s largest inland lake. It has been described as the crown jewel of Californian avian biodiversity. The Sea offers greater species diversity than the Florida everglades. More than two-thirds of all species of birds (400 species) in the Continental United States have been recorded at the Sea. The Sea supports 45% of the entire U.S. population of the threatened Yuma clapper rail, 80% of the western American white pelicans, and 90% of the continental population of eared grebes. Given the loss of 95% of California’s historic wetlands, the Sea has become a critical link in the Pacific flyway.

The birds at the Salton Sea depend on the Sea’s fishery, which has been described as one of the world’s most productive. It has been estimated that 200 million fish inhabit the Sea.

The Sea is also an important recreational resource. An estimated 2 million people visit the Sea annually. Many consider it to have the best fishing in California. It is also considered one of the most popular bird watching spots on the Continent.

The lynch pin of the Sea’s bio-diversity, its fishery, is threatened. The Sea is a terminal inland water body; the salinity of the Sea is slowly rising.

Inflows to the Sea, which are largely dependent on agricultural run-off, have remained essentially constant for 30 years at 1.34 million acre-feet per year. If inflows remain at that level, the Sea will likely continue to support its fishery, and the rich bio-diversity that depend on that fishery, for another 60 years. At that time, the sa-

¹An ex-officio member of the Salton Sea Authority.

²This work is memorialized in various newsletters published by the Authority and by the University of Redlands in a pamphlet called “Salton Sea, California’s Everglades” that was handed out to participants at the Subcommittee’s field hearing on June 14. The pamphlet provides full-color details regarding the Salton Sea, its bio-diversity, and restoration that support and augment the brief summary provided in this statement. For copies of the pamphlet, you may contact the University of Redlands at (909) 335-5268.

linity will reach 60 parts per thousand, at which point it is generally assumed that critical fish populations will be unable to reproduce.

The goal of the restoration planning effort has been to restore and maintain the Sea's vital ecosystem indefinitely. The restoration project has shown that methodologies exist to withdraw salt from the Sea at a sufficient rate to maintain a viable fishery if inflows close to historic averages are maintained.

Solar evaporation ponds have been used for millennia to extract salt from water. The Salton Sea Authority, in partnership with the Bureau of Reclamation, has constructed a solar evaporation pond pilot project at the Sea and is testing salt disposal techniques at another pilot project at the Sea. Additionally, we recently initiated a joint project with CalEnergy to use some of their waste heat from their geothermal plants at the Sea to test a desalinization process.

Under continuation of historic average inflows, restoration is clearly possible. It is estimated that a salinity control project, assuming current inflows and using solar ponds, would cost \$250 million³, present value.

The Impact of Water Transfers

The effect of water transfers on the Salton Sea depends largely on the manner in which water is conserved for transfer. The project proposed by IID, and facilitated by this legislation, would rely on "on-farm conservation": reduction or elimination of "tail water" and improvement of delivery systems in Imperial Valley. Virtually all of the water conserved in this manner (300,000 acre-feet per year) would be water that would otherwise flow to the Sea.

The reduction of inflows of 300,000 acre-feet per year would cause the level of the Sea to drop around 15 feet and the Sea to significantly shrink. Salinity in the Sea would rise rapidly, reaching the benchmark of 60 parts per threshold in 2013. Sometime around that point, it is expected that the fishery would collapse.

A restoration project designed to accommodate reductions of inflow of that magnitude would be so large that it would be infeasible to build and would cost well over \$2 billion. The \$110 million committed by the Facilitation Act falls far short of the additional amount needed for restoration due to reduced inflows. Consequently, under on-farm conservation, restoration of the Sea becomes infeasible.

As an alternative to restoring the Sea, IID initially proposed a Habitat Conservation Plan that relies on the construction of large (5,000 acre) fish ponds (likely the "Habitat Enhancement Projects" envisioned by the Act). It was hoped that the ponds would provide replacement food for the fish-eating birds and mitigate the impacts of the dying Sea.

During hearings before the California State Water Resources Control Board regarding the transfer project, the fish pond project was uniformly criticized by scientists who had reviewed the proposal. The California Department of Fish and Game and United States Fish & Wildlife Service concluded that the plan would not be effective in mitigating impacts to endangered species. IID ultimately withdrew that proposal.

Even if the Habitat Conservation Plan had been effective, the cost would likely have been prohibitive. IID's own estimates of the cost of the habitat conservation project ranged from the low hundred million dollars to the low billion dollars.

It is our understanding that the rejection of the Habitat Conservation Plan by the Fish & Wildlife Service is the motivating factor behind the Facilitation Act. In exchange for a \$50 million dollar payment by the Water Districts benefited by the transfer (IID, CVWD, MWD and SDCWA), the Act provides that the requirements of the Endangered Species Act are deemed to be fully satisfied and the Water Districts are absolved of any further liability under federal law for transfer-related projects. Consequently, under the Facilitation Act, transfers could be accomplished without mitigating impacts to endangered species, or other species that rely on the Salton Sea's ecosystem.

The \$60 million authorized by the Facilitation Act, even when added to the \$50 million required of the Water Districts, is hopelessly inadequate to mount either a minimally effective salinity control project or an alternative habitat conservation plan. Unless significant funding was forthcoming from other sources, the Sea would shrink and die and America would lose one of its biodiversity gems.

Air Quality Impacts

Equally troubling, implementation of the transfers as contemplated by the Facilitation Act pose a serious air quality risk to the residents of the Coachella and Impe-

³ Cost estimates continue to be refined and could increase some. However, these present value costs not only include the cost of construction, they also include the costs of operations and management over time and the costs of other ancillary programs (wildlife disease program, etc.).

rial Valleys that abut the Salton Sea. The receding Sea would expose over 70 square miles of bottom sediment. Very fine bottom sediments, once exposed, may become wind-borne dust (PM10), one of the major causes of air pollution.

In an analogous situation, the Owens Lake bottom was exposed by water transfers to Los Angeles in the early part of the 20th Century. The area exposed at Owens Lake was roughly one-third to one-half of the area that may be exposed at the Salton Sea. Nevertheless, dust storms at Owens Lake have caused severe air quality and health problems.

Los Angeles has been forced to implement a dust stabilization program to remediate the air quality problems at Owens Lake. It is anticipated that that program will cost \$400 million to implement, and another \$10 million annually to maintain.

Imperial and Coachella Valleys already fail to meet federal air quality standards for PM10. Imperial Valley currently has the highest incidence of childhood asthma in the State, a fact attributable to the poor air quality. It is feared that a receding Salton Sea could cause significant degradation of air quality in the area, imperiling residents' health, and necessitating costly dust mitigation measures that would significantly hamper local economies.

To address air quality hazards posed by water transfers, the Facilitation Act requires the Secretary of Interior to "carry out projects under this section [Section 3] that are necessary to prevent threats to health or safety caused by wind erosion of portions of the Salton Sea bed that become exposed as a direct result of the receding of the Salton Sea..." due to water transfer-related conservation measures. No projects are currently proposed for mitigating the potential air quality impacts of a receding Sea, but it is estimated that the cost of remediation could be significant. Notwithstanding the requirement of the Act that the Secretary carry out such projects, the Act does not authorize any federal funding for that effort.

There Is An Alternative

The Final Environmental Impact Report certified by IID on June 28, 2002, proposed an alternative: fallowing. Farmland could be fallowed on a rotating basis to provide water to meet transfer obligations and/or to provide replacement water to the Salton Sea. Such an alternative could keep salinity increases on the same trajectory that they have been on for the past couple of decades. This would provide an opportunity to implement a cost-effective restoration program.

However, the water transfer agreement between IID and SDCWA rejects fallowing as a method of conservation. In policy statements, IID has consistently rejected the fallowing alternative as causing unacceptably large damage to the local economy.

Effect of the Proposed Facilitation Act on the Salton Sea

Reclamation Act of 1998

Section 4(a)(1) of the Facilitation Act states that the Salton Sea Reclamation Act of 1998 recognized that: "the Federal Government will bear the responsibility for the rehabilitation of the Salton Sea..."

The Salton Sea Authority would welcome that level of commitment from the Federal Government. Nevertheless, while Congress is the ultimate arbiter of what the Salton Sea Reclamation Act intended, the Authority has never understood the Act to constitute the Federal Government's full assumption of responsibility for rehabilitation of the Sea.

With respect to restoration planning, the Restoration Act does provide that the Secretary of Interior:

"shall apply assumptions regarding water inflows into the Salton Sea basin that encourage water conservation, account for transfers of water out of the Salton Sea basin, and are based on a maximum likely reduction of inflows into the Salton Sea which could be 800,000 acre-feet or less per year".

The Secretary was to develop a report with the Salton Sea Authority that evaluated restoration options under reduced inflow conditions. Such a report is still forthcoming. In a recent letter to the Secretary of Interior, even the Sea's greatest legislative supporters acknowledge that the report should evaluate multiple inflow conditions. (See Exhibit 9 in the Authority's testimony before the Subcommittee on June 14, letter to Secretary Norton from Congressional Salton Sea Task Force).

Evaluation of restoration alternatives under various inflow assumptions is an order of magnitude less committal than paying for restoration under those conditions. As noted above, restoration under significant inflow reduction becomes prohibitively expensive.

Salton Sea Authority's Position on the Colorado River - Quantification Settlement Facilitation Act

On July 18, 2002, the Salton Sea Authority unanimously voted not to support the Facilitation Act. The Authority found the Facilitation Act to be inconsistent with the Authority's previously adopted position with respect to restoration of the Salton Sea. The Authority's position is stated in its Resolution 02-02 (attached as Exhibit 3 in the Authority's testimony before the Subcommittee on June 14, 2002), which provides, in part:

- "NOW THEREFORE, BE IT RESOLVED, by the Board of Directors of the Salton Sea Authority to oppose projects that will significantly lower the level of the Salton Sea".

As discussed above, the proposed Facilitation Act would facilitate transfer projects that rely on conservation techniques that significantly reduce inflows to the Sea. Restoration of the Salton Sea would be rendered infeasible.

- "BE IT FURTHER RESOLVED to support efforts by Congressman Mary Bono to ensure that the impacts of water transfers on the Salton Sea and the Imperial and Coachella Valleys are complying with environmental laws."

The proposed Facilitation Act in essence grants the Water Districts a federal waiver from compliance with federal environmental laws with respect to transfer-related projects. Impacts on endangered species would not be mitigated. Impacts on Valley residents from the threat of significantly degraded air quality are not adequately addressed.

- "BE IT FURTHER RESOLVED to urge the IID Board of Directors to pursue water transfer solutions which meet the terms of the QSA which properly mitigate impacts on the Salton Sea, and which address economic and social impacts in the Imperial and Coachella Valleys.

The \$110 million proposed by the Act for mitigating transfer-related impacts will be inadequate to address the impacts on restoration and to mitigate potential environmental impacts at the Sea. The Bill provides no mechanism for addressing economic and social costs of a dying Salton Sea.

- "BE IT FURTHER RESOLVED that any mitigation identified and implemented for the transfer be done in a manner consistent with the goals and objectives for the full restoration of the Salton Sea."

The Act facilitates water transfers that would significantly reduce flows to the Sea and make restoration very expensive, very large and/or very complicated. It would likely make full restoration impractical or impossible.

- "BE IT FURTHER RESOLVED to support stringent reviews of any State and/or Federal legislation that relax environmental laws at the detriment of economic or environmental values of the Salton Sea, and Imperial and Coachella Valleys.

The legislation appears to be designed to facilitate water transfers by relaxing environmental laws. Public health and environmental values of the Salton Sea, Imperial and Coachella Valleys, are not protected.

Conclusion

The Salton Sea is a critical environmental resource and important asset to the economies of the Imperial and Coachella Valleys. The Colorado River Quantification Settlement Facilitation Act would enable water transfers in a manner that would make restoration of the Sea extremely costly and, very likely, impractical.

If compliance with environmental laws is waived as contemplated by the Facilitation Act, the water transfers can be implemented in a manner that will have severe public health, economic and environmental consequences to the region surrounding the Salton Sea. Those impacts can and should be avoided by pursuing conservation alternatives that do not reduce inflows to the Sea, do not threaten the rich biodiversity of the Sea's ecosystem, and do not threaten the health of residents of the Imperial and Coachella Valleys.

The Salton Sea Authority has been diligently testing and demonstrating projects and programs to maintain and restore the Salton Sea. With your continued support, the Authority believes that those efforts can be brought to fruition, and Americans can continue to enjoy the outstanding ecological and recreational resources of the Salton Sea.

Mr. CALVERT. Mr. Underwood, you are recognized for 5 minutes.

**STATEMENT OF DENNIS UNDERWOOD, VICE PRESIDENT FOR
COLORADO RIVER MATTERS, METROPOLITAN WATER DIS-
TRICT OF SOUTHERN CALIFORNIA**

Mr. UNDERWOOD. Thank you, Mr. Chairman, to avoid repetition, we have a joint statement and I am going to defer to Mr. Levy to summarize that statement.

I just would like to compliment the Chairman. Like you have indicated, you have held numerous hearings, field hearings, and hearings here in Washington. Your leadership has helped advance this. The same is true with Congressman Hunter and Congresswoman Bono. Your active involvement in his has been helpful to us and we need to have you stay engaged, not only on the Federal side, but on the State side, because if we are only successful on the State or only successful on the Federal side, we don't get there. We need to do it as a united front.

Really, the Metropolitan Water District appreciates all of your efforts in this regard.

I will defer to Mr. Levy.

Mr. CALVERT. Mr. Levy.

**STATEMENT OF THOMAS LEVY, GENERAL MANAGER-CHIEF
ENGINEER, COACHELLA VALLEY WATER DISTRICT**

Mr. LEVY. Thank you, Mr. Chairman. I would ask that the statement of the four agencies be included in the record.

Mr. CALVERT. Without objection.

Mr. LEVY. I would like to echo Mr. Underwood's appreciation of the Committee and especially Congressman Hunter's activities to try to bring resolution to this very difficult issue.

When we started the transfers, we were assured by Secretary Babbitt and Assistant Secretary Hayes that the agencies would not bear the responsibility for the Salton Sea, that the 1998 Salton Sea Restoration Act would be the vehicle to deal with the sea.

So, we are now faced with a very difficult issue. I would like to assure you that all four agencies are committed to resolve the California-Colorado River issues and to implement the quantification supplement agreement by the end of the year.

I think everyone is aware, if we are not successful, California will lose between 700,000 and 800,000 acre-feet of water next year from the Colorado River. That will have major impacts on urban California because we are currently using that water through the Interim Surplus Guidelines. Those guidelines will result in the suspension of it.

At a workshop yesterday, we heard from the other Basin States, that they are not interested in renegotiating at this time. So, there will be a direct impact. That impact will flow through California and have significant economic impacts. So, it is critical that we resolve this.

The four agencies are working 24 hours a day, 7 days a week, trying to resolve the issues. In the statement you will see the list of the accomplishments that we have done so far.

Just to give you an idea of some of the things we have done in the last week or 10 days, we have met with California's Secretary of Resource, Mary Nichols and her department heads and key staff trying to work on resolution of it.

We met with Secretary Norton and her assistants to work on a resolution of this.

We held a workshop yesterday in Los Angeles to go over the impacts of the drought that is occurring on the Colorado River today and the impacts of not having the QSA signed in there.

We have had, it seems like 1,000 conference calls trying to address the various issues in there. So, we are working on it. We believe that we need additional time in order to come up with some of the ideas that were put forth at the meeting that Senator Feinstein held last month and to come up with activities or a program that may be workable.

We would ask that we could work with the Committee over the recess to reach agreement.

Thank you.

Mr. CARTER. Well, the gentleman has that commitment.

[The joint statement of Mr. Levy and Mr. Underwood follows:]

Joint Statement of Imperial Irrigation District, Coachella Valley Water District, The Metropolitan Water District of Southern California, and San Diego County Water Authority

This joint statement is presented by the representatives of the four Southern California water agencies that together use the large majority of Colorado River water delivered to California—the Metropolitan Water District of Southern California (MWD), the Coachella Valley Water District (CVWD), Imperial Irrigation District (IID), and the San Diego County Water Authority (SDCWA), which we will collectively refer to as the “Agencies”. We are the water agencies that are directly participating in the water transfers and other vital actions that make up the Quantification Settlement Agreement, which is the subject of this bill, H. R. 5123. The Quantification Settlement Agreement (QSA) is the vehicle through which we will implement essential provisions of California’s Colorado River Water Use Plan (California Plan). We cannot overstate the importance of the California Plan to California, its economy and environment. Unless this effort succeeds, a major statewide water shortage will occur, depriving Southern California of 700,000 acre feet per year of crucial water supplies beginning on January 1, 2003, only five months from now. We have achieved remarkable progress during the years that have been devoted to avert this impending crisis, and we are within sight of our goal. This effort has not been just that of our four agencies; it has involved the work of the legislative and executive branches of the federal government and the State of California, particularly Members of the House of Representatives.

The Impending Water Shortage

The Colorado River is a vital resource for Southern California, supporting a tremendous agricultural industry and more than 17 million residents in one of the most economically productive regions of the world, including the cities of Los Angeles and San Diego. The state has a Colorado River basic annual apportionment of 4.4 million acre-feet, but for many years California has used up to 5.2 million acre-feet per year, relying on system surpluses and the apportioned but unused Colorado River water of Arizona and Nevada. Before 1997, because the unused apportionments of Arizona and Nevada were available to California, the availability of additional water over and above the state’s basic annual apportionment of 4.4 million acre-feet was highly predictable. But since Arizona and Nevada have begun using their full entitlements, California has had to rely on year-to-year declarations of surplus by the Secretary of the Interior to provide the additional 800,000 acre feet per year to meet California’s needs. Those surplus declarations depend on the vagaries of the weather and are unpredictable.

If the Guidelines do not remain in effect, California stands to lose approximately 700,000 acre feet that are needed to fill MWD’s Colorado River Aqueduct (CRA), which annually delivers about 1.25 million acre feet of water to the urban coast. The practical effect of the loss of 700,000 acre feet per year to the urban coast would be a severe water crisis with devastating economic impacts for all of California, and a ripple effect through the economy of our entire nation.

The magnitude of our joint effort to prevent this impending crisis is extraordinary. We must reduce California’s use of Colorado River water by 800,000 acre-

feet per year and still continue to meet the region's water needs. This reduction is equivalent to the amount of water used annually by more than five million people in Southern California. Such a dramatic shift in resources is made possible through California Plan and QSA programs to conserve agricultural water and transfer it for urban uses, as well as groundwater storage and conjunctive use projects, and other water management programs. One of the most important components of the California Plan is the transfer of up to 200,000 acre-feet per year of water from the IID to SDCWA. This transfer, along with others, will maintain the reliability of the region's water supply and help eliminate the dependence on surplus water to fill the CRA.

Progress to Date

California is at a critical juncture in terms of its use of Colorado River resources. The urgent need to reduce river use is well understood by the Agencies. Along with the Colorado River Board of the State of California, we have responded with the California Plan, which was developed in consultation with and is supported by the other six Colorado River Basin states and the Department of the Interior. To date, the Agencies have successfully fast-tracked a wide range of complex legal agreements and environment documents needed to implement the Plan. The October 1999 Key Terms for Quantification Settlement Among the State of California, IID, CVWD, and MWD identified 12 specific areas of conditions that need to be satisfied or waived prior to execution of the QSA and related documents. This includes completion of environmental reviews, implementing interim surplus guidelines, implementing an inadvertent overrun and payback program relative to Colorado River water consumptive use, completing the California State Water Resources Control Board (SWRCB) water transfer petition review process, and obtaining conserved water and a means to deliver the water for the San Luis Rey Indian Water Rights Settlement Act. The critical path for satisfaction of the conditions includes completion of the environmental reviews and SWRCB transfer petition process, and securing of federal and state Endangered Species Act clearance for the water transfers. The remaining conditions have been or are achievable within the required time frame for executing the QSA and related documents.

The following is a list of the major accomplishments (including program and project implementation) to date that either relate to the California Plan or aid in their effectiveness and implementation:

- December 1988—IID/MWD Water Conservation and Use of Conserved Water Agreement and the associated 1989 Approval Agreement
- April 1998—Water Conservation and Transfer Agreement between IID and SDCWA
- August 1998—Water Exchange Agreement between SDCWA and MWD
- September 1998—State funding of \$235 million for canal lining and conjunctive use elements of the California Plan
- October 1999—Key Terms for Quantification Settlement Agreement Among the State of California, IID, CVWD, and MWD
- November 1999—Secretary of the Interior Final Rule on Offstream Storage of Colorado River Water (Interstate Banking)
- May 2000—California Colorado River Water Use Plan (a prerequisite for Secretarial Colorado River Interim Surplus Guidelines)
- December 2000—Public release of draft QSA by QSA parties
- January 2001—U. S. Fish and Wildlife Service Biological Opinion for Interim Surplus Guidelines and river impacts of the QSA
- January 2001—Record of Decision for Colorado River Interim Surplus Guidelines
- May 2001—Interim Surplus Guidelines Agreement between Arizona and MWD
- May 2001—Certify Environmental Impact Report for Coachella Canal Lining
- June 2001—State Funding Agreement for Coachella Canal Lining
- October 2001—State Funding Agreement for All-American Canal Lining
- January 2002—Draft Environmental Impact Report/Environmental Impact Statement for IID Water Conservation and Transfer Project and Draft Habitat Conservation Plan
- January 2002—Draft Program Environmental Impact Report for Implementation of the Colorado River Quantification Settlement Agreement
- January 2002—Draft Environmental Impact Statement for Implementation Agreement, Inadvertent Overrun and Payback Policy, and Related Federal Actions
- March 2002—Record of Decision for Coachella Canal Lining
- May 2002—Draft Environmental Impact Report for the Proposed Palo Verde Irrigation District Land Management, Crop Rotation and Water Supply Program

- May 2002—Interim Surplus Guidelines Agreement between Southern Nevada Water Authority and MWD
- May—July 2002—Completion of California SWRCB hearing on QSA water transfer petition
- June 2002—Draft Program Environmental Impact Report for Coachella Valley Water Management Plan and State Water Project Entitlement Transfer
- June 2002—Committee passage of California Senate Bill 482 regarding California “fully protected” species and facilitation of the QSA
- June 2002—Certification of Environmental Impact Report for IID Water Conservation and Transfer Project
- June 2002—Certification of Program Environmental Impact Report for Implementation of the Colorado River Quantification Settlement Agreement
- July 2002—Notice to Proceed for Design of Coachella Canal Lining Project
- Drafts of the Quantification Settlement Agreement and all related legal documents
- All American Canal and Coachella Canal lining projects construction agreements
- MWD, in conjunction with others, has initiated development of potential Colorado River water storage and conjunctive use programs in:
 - Hayfield Valley
 - Chuckwalla Valley
 - Cadiz Valley
 - Lower Coachella Valley
 - Arizona

The California water agencies have already spent millions of dollars toward formulating and securing approval of vital components of the California Plan, and will commit billions of dollars upon their implementation. In addition, the State of California has appropriated \$235 million for canal lining and groundwater projects in furtherance of the California Plan. The Plan will be complemented by efforts to aggressively promote additional water conservation, water reuse, and local water supply development within the service area boundaries of each agency.

California Plan—Implementation Timeline

California was given time to implement the water conservation and transfers when the Secretary of the Interior adopted the Interim Surplus Guidelines (Guidelines) in January 2001. The Guidelines are essentially special rules for operating Lake Mead that allow California to receive additional surplus water for 15 years, or through 2016. Without these special rules, California would now receive no surplus water and would presently be experiencing an 800,000 acre-foot shortage of water for this year. During the period that the Guidelines are in effect, California is expected to implement necessary water transfers and other programs. The Guidelines are contingent, however, upon California’s successful completion of certain deadlines and milestones.

One critical deadline that must be met is the execution of the Quantification Settlement Agreement, the most important element of the California Plan, by December 31, 2002. The ability to execute the QSA by this deadline is the single most important issue facing us today. If the QSA is not executed by this deadline, the California Plan is at grave risk of unraveling.

The QSA is designed to settle longstanding differences between the Agencies and implement core water transfers, including the IID/SDCWA transfer. The QSA must be implemented to continue the Guidelines and allow the California Plan to go forward. The Guidelines specifically provide that unless the QSA is executed by December 31, 2002, the surplus provisions that benefit Southern California will be suspended until such time as California completes all required actions and complies with reductions in water use reflected in the Guidelines. This means that we are facing the loss of the additional surplus water provided under the Guidelines if the QSA is not executed by the end of the year, resulting in the loss of 700,000 acre-feet per year of water to Southern California, beginning on January 1, 2003.

Environmental Compliance Issues

The Agencies have worked diligently with the United States Fish and Wildlife Service and the Bureau of Reclamation to reach agreement on an on-river habitat and backwater mitigation plan to address impacts of shifting water from agricultural to urban points of use. Additionally, agreements will be in place for in-valley measures to mitigate impacts of the programs in the area where water conservation will occur. Likewise, project-specific environmental reviews address individual project impacts. This includes canal lining projects and water storage and conjunctive use programs.

The Agencies have also pursued a similar course of action with the State of California executive branch and legislature to address compliance with the California Endangered Species Act and a special provision of California law dealing with “fully protected” species. The State of California places a high priority on implementing the California Plan and QSA, and the Secretary of the California Resources Agency, Mary Nichols, is chairing a broad-based group working to solve the state issues. In the California legislature, Senate Bill 482, sponsored by Senator Sheila Kuehl, has passed its committee and will now be considered by the full State Assembly and Senate. That bill resolves state “fully protected” species issues, which must occur to implement the QSA, and takes other actions to facilitate the QSA.

The remaining major federal issue regarding execution of the QSA is how to address potential environmental impacts of water conservation and transfers on the Salton Sea. The transfer of conserved water from the agricultural sector to the urban sector is essential to allow California to live within its 4.4 million acre-foot basic annual apportionment. However, water conservation in agricultural areas using Colorado River water, specifically in the IID service area, may cause reduced agricultural drainage to the Salton Sea.

The present Salton Sea was created in 1905 when floodwaters of the Colorado River broke through diversion facilities along the river near the international boundary and carried the entire flow of the river through the Alamo Canal into the below sea level Salton Sink until the breach was finally closed in 1907. Since that time, as the Sea’s water has evaporated, it has been maintained by inflows, the vast majority of which consists of agricultural drainage water. As provided for by Presidential executive orders in the 1920’s, the principal purpose of federal Salton Sink lands below elevation minus 220 feet since that time has been to serve as a reservoir for the irrigation drainage waters from the Imperial, Coachella, and Mexicali valleys. Without these drainage inflows, the Sea would evaporate and disappear. Freshwater fish species that were carried into the Sea by the floodwaters died off as the salinity level of the Sea rose. Beginning in 1929, the California Department of Fish and Game created a salt water fishery by introducing various species of sport fish from the Gulf of California. Other exotic fish have been accidentally introduced to the Sea and have established populations.

Today the Salton Sea is used by many species of migratory birds, including certain endangered species. Many of these species rely on the fish in the Sea for their food source. Because of evaporation, the Sea’s salinity has increased steadily over the years, and will continue to increase absent intervention. Now at a salinity of 44,000 parts per million, which is 25 percent saltier than the Pacific Ocean, the Salton Sea is approaching a “hypersaline” condition, in which the reproduction and survival of fish is jeopardized. It has been estimated that under current conditions, the Sea will reach a critical salinity level that is unable to support a fishery in 7 to 25 years.

The causes of increasing salinity and environmental decline of the Salton Sea extend far beyond any effect of the transfers. Congress recognized this fact in the 1998 Salton Sea Reclamation Act (Public Law 105-372) and directed that the transfers be included in the baseline condition of the proposed Salton Sea reclamation options. The legislation acknowledged the importance of the water transfers to California, the other Colorado River Basin states, and Mexico.

The 1998 reclamation law required a feasibility study, providing reclamation options, be submitted to Congress by January 1, 2000. We had expected that Congress would by now have been able to consider the feasibility study and make a decision on reclamation of the Sea. However, the feasibility study has yet to be completed. The QSA, and its impending deadline for execution, is therefore ahead of the federal Salton Sea reclamation effort. Because of this, the Agencies must separately address environmental compliance related to the water transfers at the Salton Sea. This is difficult because the environmental impacts related to endangered species are temporal in nature and not easily quantified. The best scientific analysis available estimates that the Salton Sea will reach the critical hypersaline environment 2 to 11 years earlier if the QSA water transfers are implemented. Absent a comprehensive solution, the Salton Sea will soon reach a hypersaline level with or without the QSA water transfers.

These matters are beyond the Agencies’ direct control to resolve. Accordingly, the Agencies have met extensively with Department of the Interior officials, including the Fish and Wildlife Service and the Bureau of Reclamation, to determine how the QSA may be executed within the time frame required. We are very appreciative of the assistance we have received and their recognition that this is an urgent matter.

We are also grateful for the concern and assistance of Members of Congress in identifying legislative proposals to move the QSA past the remaining obstacles. In August 2001, Congressman Hunter introduced a bill specifically designed to facili-

tate implementation of the QSA, and in October 2001, Congressman Calvert's H.R. 3208, the Western Water Security Enhancement Act, added authorization for an appropriation for activities to address environmental impacts on the Salton Sea. However, we are now only five months from the deadline for execution of the QSA, and we must resolve the Salton Sea issues this year in order meet the deadline. Recognizing the urgency and gravity of the situation, Congressman Hunter has introduced H.R. 5123 to address remaining issues.

H.R. 5123—The Colorado River Quantification Settlement Facilitation Act

The basic tenet underlying H.R. 5123 is that the water agencies are not responsible for restoring the Salton Sea. This follows the principles of the 1998 Salton Sea Reclamation Act, which recognizes that Congress must make a decision on reclamation of the Sea, and that the Sea's problems cannot disrupt the water transfers that are so crucial to the future of California.

H.R. 5123 would also provide \$53 million for small off-stream water management reservoirs and associated facilities to improve water conservation and river management, which could also provide improved water supply management options for Mexico. The Bureau of Reclamation estimated that in 2000 about 300,000 acre-feet was lost from Colorado River reservoir storage because of the inability to re-regulate lower Colorado River flows.

The Agencies look forward to working with Congressman Hunter, other Members of Congress and staff, and interested parties during the upcoming recess to agree on modifications to the bill language that will resolve all legitimate concerns and enable the QSA to move forward in a timely manner.

Conclusion

Failure to meet the deadlines will mean suspension of the Interim Surplus Guidelines and an immediate loss of over 700,000 acre-feet of water to Southern California on January 1, 2003. Such a massive water shortage would have severe economic consequences for the State of California, and those consequences would be felt across the nation.

Finally, we want to restate our Agencies' commitment to implement the California Plan and maintain our lifeline to the Colorado River. We urgently need the assistance of the Congress to provide a means for us to proceed within our time constraints, while recognizing and meeting legitimate concerns for the future of the Salton Sea.

We appreciate the opportunity to appear before the Subcommittee to address these very important issues.

Mr. CALVERT. Mr. Snape.

STATEMENT OF BILL SNAPE, VICE PRESIDENT FOR LAW AND LITIGATION, DEFENDERS OF WILDLIFE.

Mr. SNAPE. Thank you very much, Mr. Chairman. I ask that my full written statement be submitted for the record.

Mr. CALVERT. Without objection. You are recognized for 5 minutes.

Mr. SNAPE. I will cut to the chase, Mr. Chair. The Endangered Species Coalition, of which Defenders of Wildlife is a part and the Salton Sea Coalition in California, made up of a number of environmental and conservation groups in that State, each oppose H.R. 5123 as written.

But I think focusing on some of the specific legislative provisional language that this bill has misses, I think, some key points, and I want to touch upon some of those key points right now.

The first, and I have heard this repeatedly and it is not often I get to quote the Rolling Stones at a Congressional testimony, but I am going to do it. I think time is on our side, at least to a greater extent than has been portrayed this morning. The reason I say that is that under the Interim Surplus Guidelines final rule, which is the document that everyone is referring to when they say that we are going to lose, California is going to lose this extra water if we

don't consummate the QSA by the end of the year, that isn't exactly what it says. What it says is that the State of California needs to meet a benchmark.

It is my opinion that the State of California is already at that benchmark or is extremely close to it. That does not mean that we have years to figure this out. I think that we ought to start, as we have today and tomorrow, and get this done this year if possible. But I do not subscribe, it is my legal opinion that the world will not come to an end on December 31, per se.

But we might face another crunch on December 31, 2003 because you will have to reach another benchmark at that point. But I just think we have a little bit more time than has been assumed throughout all of the testimony this morning. That is Section 5, for those interested, in the Interim Surplus Guideline final rule published in January 2001.

The other point I wish to make is a broad based environmental point, as you might expect from me. It is the only thing I really disagreed with Bob Johnson on, who I respect a great deal. But in his testimony and it has been echoed by others that somehow the Salton Sea and the QSA and the transfer are not linked. I think they are linked. Even if we wanted them to not be linked, the ecology of the Lower Colorado River Basin and the events as we now know them have linked them beyond our control.

I think from an environmental point of view what that has led to are a series of environmental analyses that for the narrow question that they are asking, are good analyses, perhaps, perhaps.

But they certainly have not looked at the whole picture. I think Congresswoman Bono was getting at this. We still, I don't think, have wrapped our arms around not only the full issues of the Salton Sea and restoration of it, but how this is going to relate to the larger QSA effort.

My own take on the Salton Sea for what it is worth, and it may not be worth very much because there have been much brighter scientific mines than I that have looked at this, but our take on the Salton Sea is that it is a question of what full restoration actually means.

I do think our goals for the Salton Sea need to be reasonable. I admit that that is a subjective term, but I do think that is part of the problem here. I think we have all alluded to that in some fashion or another.

The last point I will make is that perhaps the worst or best criticism I can make of this particular bill, and it may not be a matter of intent; it just may be the way it is crafted, is I do think that of the \$163 million contemplated to be spent by this bill, I am just not sure we know yet how to best spend that money. I am not convinced with the \$113 million of Federal funds, the \$50 million of private funds, although there is some confusion as to how those pots of money are related — I am not sure what we would be throwing money at at this point.

In fact, just to finish by quoting the Salton Sea Act of 1998, because I agree with Mr. Hunter and Mrs. Bono on this point, I think all of us are saying this in different ways. But I just want to read from that Act Section 3, assumptions.

“In evaluating options, the Secretary of Interior shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation and accounts for transfers of water out of the Salton Sea Basin and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.”

In the next section on consideration of costs, it says that “Federal, tribal, State, local governmental sources and private sources shall fund capital construction costs.”

I think we knew in 1998 we were going to have to hold hands and do this. I think where we are today is that we still don’t know how to get there. Now we have this QSA that is hovering over us, not maybe as immediately as this December, but certainly by next December.

Thank you, Mr. Chairman.

Mr. CALVERT. I thank the gentleman for your testimony.

[The prepared statement of Mr. Snape follows:]

**Statement of William J. Snape, III, Vice President and Chief Counsel,
Defenders of Wildlife**

Defenders of Wildlife (“Defenders”) and our allies—other conservation groups, Indian tribes, and various business interests—have been actively working to protect and restore the Colorado River for almost a decade. Defenders itself is a non-profit biodiversity organization with approximately one million members and supporters. Our offices are headquartered in Washington, D.C. with field offices, inter alia, in Albuquerque, Tucson, Sacramento and Mexico City. Starting with Secretary of the Interior Bruce Babbitt’s efforts in the mid-90s, and continuing with the Bush Administration, Defenders has commented on numerous proposals, draft environmental impact statements, administrative decisions, legislative initiatives and the like relating to H.R. 5123. We are intimately involved in almost every facet of this intertwining set of serious water policy issues.

This Committee must decide what, if anything, Congress should do regarding management of the Colorado River. At present, Defenders does not see the need for federal legislation. And while I reserve the opportunity to submit additional information for the record at the hearing, including our serious concerns with the extremely problematic legislative language in H.R. 5123, our message today is three-fold:

Point One: A 4.4 Plan is a Good Thing

Defenders unequivocally supports the state of California’s efforts to get its annual consumptive use to 4.4 million acre-feet (af), the amount allotted under the “Law of the River.”¹ Defenders also supports, in broad principle, the proposal to sell water from the Imperial Irrigation District to San Diego County², as well as the proposal to establish instream flow rights for the entire river as part of the United States’ trust responsibilities to the American public.

Point Two: Use, Don’t Abuse, NEPA

The environmental review under the National Environmental Policy Act (NEPA)—a statute that possesses no express substantive restrictions—for the Quantification Settlement Agreement (QSA) and all other related actions has been pitiful.³ Instead of looking for ways out of NEPA, Congress and the applicable federal agencies should be seeking to utilize NEPA as the useful federal planning device that it is. No one should be surprised that federal agencies such as the Bureau of Reclamation now face serious legal questions under the Endangered Species Act

¹ See *Arizona v. California*, 376 U.S. 340 (1964) (Supreme Court Decree regarding Boulder Canyon Project Act and other law).

² See, e.g., Legal Memorandum of Defenders of Wildlife and Planning & Conservation League, *In re Imperial Irrigation District and San Diego County Water Authority*, State of California Water Resources Control Board (July 11, 2002).

³ See, e.g., Letter from E.P.A. to Bureau of Reclamation, 26 April, 2002 (noting “adverse effects to surface and groundwater quality and lack of mitigation,” “insufficient information” on public health and endangered species issues, and the clearly illegal segmentation of many related actions). The state of California has echoed these concerns.

(ESA) because these agencies have little idea how their various band-aid proposals—none of which have been looked at synergistically—would impact listed species such as the brown pelican, snowy plover, Yuma clapper rail, and the desert pupfish. The legislative environmental waivers contained in the present bill are completely unnecessary⁴, an admission of failure, and will be vigorously opposed by the general public.⁵

Point Three: Look at the Salton Sea in Context

Restoration of the Salton Sea is an important objective for migratory birds, recreation, and related economic reasons. Our goals should be realistic, with concrete responsibilities (both short and long-term) assigned to various parties. In addition, restoration of the Salton Sea must be viewed in the context of Mexican Delta conservation because the two water complexes are in the same ecosystem and water basin.⁶ Federal aid to individuals and projects in the Imperial Valley must be closely scrutinized so as to be consistent with overall Congressional objectives in the region.⁷ It is startling to see the language in H.R. 5123 when such little tangible progress has been made in implementing the terms and objectives of the 1998 Salton Sea Reclamation Act by Congress (P.L. 105–372).

Conclusion

Congress is perhaps at the most important juncture in the management of the lower Colorado River—a federalized river—since 1928 when it passed the Boulder Canyon Project Act.⁸ 43 U.S.C. §617 et seq. Major issues pertaining to California development, human health, the Salton Sea, federal expenditures, and the entire efficacy of the lower Colorado River basin, including Mexico, are all at stake. Although these issues are not easy, they can be solved if a truly representative and legal process is utilized. The temptation for quick fixes, with inadequate information supplied for and by the privileged few, should be rejected.

Thus, we respectfully urge this Committee:

- * to continue its important oversight role over the subject matter contained in H.R. 5123; and
- * to reject H.R. 5123 until a demonstrable need for federal legislation, which must be significantly altered from its present unacceptable form, is offered.

Mr. CALVERT. A point well taken. Mr. Levy, very quickly.

Mr. LEVY. I hate to interrupt. I would just ask that you have the Committee counsel look at the Interim Surplus Guidelines. You will find, I believe, in there that it requires suspension of the trans-

⁴Not only have the major California water users already tentatively agreed to an initial five-year fallowing period on lands contained in the Imperial Irrigation District, which would alleviate many of the short-term problems facing the Salton Sea, but the December 31, 2002 “deadline” for QSA execution in the Interim Surplus Guidelines also provides more flexibility for California than is commonly asserted. We have time to do the California 4.4 Plan correctly.

⁵See, e.g., www.stopextinction.org. Defenders has identified at least a dozen serious drafting flaws and/or environmental rollbacks in the bill at issue.

⁶See generally *Defenders of Wildlife et al. v. Norton*, pending before Judge Robertson in the U.S. District Court for the District of Columbia. This case, fully briefed and argued, will determine whether federal agencies must “consult” under the ESA for impacts from U.S. federal actions upon U.S.-listed species that occur in the Mexican Delta of the binational Colorado River. No injunctive relief or demand for water has been requested in this litigation. See also *Minute 306 to 1944 United States–Mexico Water Treaty*.

⁷This bill authorizes an additional \$113 million of federal funds (roughly similar amounts for habitat enhancement and water storage respectively), plus potentially another \$50 million in private/public funds, to essentially maintain a murky status quo. It would be far better to spend this money on ecologically-sound restoration projects and economically-sustainable jobs in the Imperial Valley once an agreed blueprint for overall action is agreed upon. Such a present lack of clarity perhaps explains why the financial numbers in H.R. 5123 are different than both what the Imperial Irrigation District’s general counsel states and what a consulting firm estimates. Compare John Penn Carter, *Water Transfers and the Salton Sea* at 4, CLE International (May 3, 2002) (“The cost of mitigating for adverse socioeconomic impacts resulting from a fallowing program may very well be equal to, or greater than, the hundreds of millions of dollars required for environmental mitigation.”) with Tetra Tech, Inc., *Draft Assessment of Salinity and Elevation for Varied Inflow* (April 2002) (numerous estimates under different plausible scenarios).

⁸See generally *Western Water Policy Review Advisory Commission, Water in the West: Challenge for Next Century* (June 1998); William DeBuys and Joan Myers, *Salt Dreams: Land and Water in Low–Down California* (1999).

fers and going to a 70-R criteria which, given the conditions on the Colorado today, means 4.4.

Mr. CARTER. Thank you, Mr. Levy. That is just the point I was going to bring up. In this job I found a lot of water attorneys and Mr. Hayes has indicated to me, who was the primary gentleman who was negotiating this agreement along with Mr. Babbitt, have both indicated that if in fact this QSA is not executed by the end of this year that the Department of Interior is within its rights to have sudden death on the Colorado River as far as California is concerned. The soft landing goes away.

That is the way I have read the agreement. I appreciate your analyses, Mr. Snape, but as you know, probably half the people in this room are water attorneys and they probably have different opinions, each one of them.

One thing, let us get to the point, Mr. Carter, you are a very important guy around here because you know, there was a famous guy back in the '20's or '30's. They asked him why he robbed banks and he said, "That is where the money is."

So, we made this comment before about Imperial County. Why is everybody looking to you? Because that is where the water is. The 4.4 million acre-feet of water that we get in California, Imperial County has perfected water rights up to 3.3 million acre-feet.

So, everybody is looking to you all. As Mr. Hunter pointed out earlier, they were talking about that 100 years ago. They knew that that was going to happen some day. You guys have spent a lot of money perfecting that water right.

We have heard some very colorful and interesting language coming from various people in Imperial County, which I think, by the way, is unfortunate. I don't think that helped the process. We are trying to find a solution to this problem. I don't think there is a person on this panel that doesn't agree that we must, for California's sake, come up to a solution to his problem.

We are running out of time. Mr. Levy indicated what is going to happen this summer. You have my commitment. I will spend as much time as necessary to find, or hopefully to find a solution to this problem.

Mrs. Bono obviously has some significant issues regarding air quality. We need to work on that. We have many issues that we have to deal with. Mr. Snape had indicated, others have indicated this legislation, like all bills, isn't going to come out exactly as written.

I am sure Mr. Miller is here to point out some of the issues that he has with it. But nonetheless, we have to do something. I again want to compliment Mr. Hunter for putting something on the table because I have to believe that nobody, nobody it envisioned in Imperial County, one of the poorest counties in the State of California, with the highest unemployment rate of any county in the State of California to take on unlimited liability, third party liability.

We have to resolve these issues and we have to do it very quickly before we can move this legislation forward.

Getting back to the issue, the big question, Mr. Carter, of following, obviously we have heard from Imperial County in many different ways on this. In your opinion, is following off the table?

Mr. CARTER. Yes, sir. Any long-term fallowing program is not acceptable to the Imperial Valley.

Mr. CALVERT. In your opinion, is there one board member on IID who would agree to the concept of fallowing?

Mr. CARTER. No.

Mr. CALVERT. In your opinion, the Board of Supervisors in the County of Imperial, have any of them or the county itself have indicated any movement toward fallowing?

Mr. CARTER. Not that I am aware of.

Mr. CALVERT. And in your opinion the water rights that you hold, which I mentioned earlier, have been perfected over 100 years, you have a pretty good standing in court?

Mr. CARTER. Yes.

Mr. CALVERT. Mr. Levy, would you agree with that analysis?

Mr. LEVY. No.

Mrs. NAPOLITANO. I like him.

Mr. CALVERT. Mr. Underwood, what is your feeling about that? What is Metropolitan's feeling? You have a little experience in this issue.

Mr. UNDERWOOD. I agree. We are not looking at long-term fallowing because of the impact. But fallowing can, on an interim basis or an upfront basis maybe help us get there along with some other concepts.

Mrs. NAPOLITANO. Would the gentleman yield?

Mr. CALVERT. Yes.

Mrs. NAPOLITANO. The question is, what do you consider long-term fallowing?

Mr. UNDERWOOD. No.

Mrs. NAPOLITANO. What is long term? Two years? Ten years?

Mr. UNDERWOOD. In the context of the discussions, the agreements can last as long, if not longer, than 75 years. That for sure would be long-term.

Mr. CARTER. Reclaiming my time, because we are short of time, I just wanted to get that on the table. Obviously, that is the problem, I mean the problem that has to be solved here in the next couple of months.

Again, I will work with everybody on both sides of the aisle and with all the water agencies and the rest and the State of California because in spite of the quote from the Rolling Stones, I am not sure that time is on our side, especially in this hearing because we have 7 minutes before the next vote.

Mr. HUNTER. Mr. Chairman, could I ask one question before we go?

Mr. CALVERT. As Mr. Miller said, you can't always get what you want. We have one vote.

Mr. HUNTER. Mr. Chairman, I am going to have to handle the next motion on the floor, so if you would indulge me, I think it would help everybody if I could ask one quick question that I think kind of sets the stage for this particular bill.

Mr. CALVERT. Very quickly.

Mr. HUNTER. OK, just very quickly. Do you gentlemen agree with the idea that understanding that the Salton Sea problem is not resolved at this time, that is the essence of the testimony we have heard, and there is going to have to be a sharing of the burden of

solving this big problem called the Salton Sea, that there should be a finite burden, a clear and concise and terminable, finite burden that the water transfer itself should carry with a limitation that it will not go beyond that?

Mr. CARTER. IID's answer would be yes.

Mr. UNDERWOOD. In terms of contributions, I would just like to make a point that it is not just the transfers that we are doing. If you look at the San Diego transfer and the transfer to Coachella, if you look at the QSA, it also includes the metropolitan IID transfer.

I just want for the record to indicate that we have spent and contributed over \$20 million already.

Mr. HUNTER. Understanding that, is your answer yes, that there should be a finite limitation to that burden?

Mr. UNDERWOOD. Yes.

Mr. CALVERT. Well, we thank the gentleman. We have about 4 minutes for the vote. We will vote and come back immediately and wrap up this hearing and then we will go right into the markup of the two bills.

[Recess]

Mr. CALVERT. The Committee will come to order.

Mr. Miller, you are recognized.

Mr. MILLER. Thank you, Mr. Chairman. Let me say at the outset and I guess to pay tribute to you, Mr. Chairman, on the time that you have spent on this issue, but not just this issue, also on a whole series of related California water — I guess we call them problems — California water problems.

I know personally from conversations with you and meetings and the rest how much time you have spent and the time that you have tentatively set aside over the break to try and bring people together.

I really don't have any questions because I have the feeling that I am in a conversation that I had before.

I have some concerns. I have some concerns with what I believe at this time to be a piecemeal approach here. I am not terribly comfortable with the idea that we can separate the transfer from the Salton Sea and I am not comfortable with before we know what the real parameters are of trying to deal with the Salton Sea and I think I am open to the full range, some of which are hard to contemplate, but I am open to those.

I am not comfortable, either, with all of a sudden limiting liability of one party to what may be a solution. I don't think, as troublesome as the Salton Sea is, I don't think that this legislation really deals with that issue and those interests.

So, I am not going to be supporting this at this time. I just think we are moving further away from where we were in Senator Feinstein's office with this idea. I just don't think it passes the muster at this time.

That is all, Mr. Chairman.

Mr. CALVERT. I thank the gentleman.

Mrs. Bono.

Mrs. BONO. Thank you, Mr. Chairman. I would like Mr. Underwood to briefly explain the differences in fallowing — and I don't want to again say that I support fallowing, necessarily, but I think

short term fallowing should be on the table. But why is it successful in the Palo Verde Valley and Blythe and why are we so hesitant in the Imperial Valley.

Mr. UNDERWOOD. Let me talk about the different types of fallowing first, and then maybe I will talk about the PDID. I will try to be brief. We have all used different terms for these. But I think first of all you have to recognize that like Mr. Carter was indicating, that long-term fallowing is a very difficult issue for Imperial.

The idea of doing something short term or interim or up front for limited period of time does have some merit in the sense of what I think Congressman Miller was getting to, is that it may buy you some time relative to decisions. You don't forego opportunities relative to the Salton Sea.

So, if you take any kind of fallowing, it will have less of an impact than on-farm relative to the sea. If you take what we call direct fallowing, and let's assume that there is six feet per acre, if you take all of that water, that would be referred to as direct fallowing. That would have a third of an impact on the sea that it would have had from an on-farm.

If you take what we referred to as an evapotranspiration fallowing, the crops would be taking four feet, you still have six feet. You have two acre feet then that would return flows that would go to the sea.

You would transfer only those that would be the crop evapotranspiration waters. The other two then you would put for land management and maintenance, which in effect would help relative to either maintaining soil salinity, et cetera, but you would get back to the sea and essentially have no impact on the sea.

Mrs. BONO. Mr. Underwood, I just want to steer you in a little bit different direction. It is more of the economic impacts of fallowing that I would like you to address.

Mr. UNDERWOOD. I was going to get to that. I wanted to at least explain what they were.

Mrs. BONO. Yes. I just hate that little red light that is going to come on real quickly.

Mr. UNDERWOOD. The part between the two, obviously in terms of socio-economic impacts, if you are doing on-farm efficiencies, there is no socio-economic impact. If you do the direct fallowing it has socio-economic impacts. If you do the evapotranspiration, because it requires more acreage, there is greater socio-economic impact.

Mrs. BONO. But would you say it has been successful so far in Blythe and the people of Blythe?

Mr. UNDERWOOD. Let me propose what is going on in the Blythe area. You can't do system improvements in the Blythe area because it is waters that come through the system and go back to the river. So, there are very little efficiency improvements that you can gain.

So, really a fallowing program is the only way to potentially provide for water supply. Why would the Blythe area be interested? I think everybody recognizes that some of the agricultural economies have not been the greatest and because of international markets it is harder to predict.

Mrs. BONO. Doesn't that hold true in Imperial Valley as well?

Mr. UNDERWOOD. Correct. But let me finish up. If you look at the farmers and the Board of Trustees are the farmers in the Palo Verde and they recognize the value of having some stability to their farm economy.

Personally, I think such a type of a program, and in Imperial it could potentially work, too, whether it was a dry year program or whether it was just something up front to potentially buy us some time for the decisionmaking relative to the sea. I think it still had some opportunities in Imperial.

Mrs. BONO. Thank you.

Mr. Kirk, part of my, I think, frustration with the Salton Sea Authority has been when it was created it was far too narrow of a charge. You have been changed entirely with saving the sea, but not with saving the region.

Has your approach, because I believe it has been, but hasn't your approach been solely focused on saving the sea and not more regional policies? I think you are dealing with two sets of county supervisors, a handful of Members of Congress, a whole host of different municipalities. So, you have so many divided interests.

But wouldn't it be helpful if we actually now expanded our scope into looking at other examples, for example, bringing the dairies down to the Imperial Valley, these sorts of things that your group has not really been charged with doing?

Mr. KIRK. We would be happy to change our charter to be in control of all things in southern California. I agree with you, though, our boundaries include the Salton Sea. However, we have been trying to look at economic development issues.

At the same time, we have been very deferential to our colleagues in the Imperial Valley and particularly the IID and Imperial County Board of Supervisors. They do sit on our Board and to the degree that we along with the partnership with the Congressional Task Force could look at the Salton Sea, look at the water transfer and look at economic development and try to marry all those pieces together, I think our Board of Directors would be interested in doing so.

Mrs. BONO. Thank you. I see my time is up.

Mr. CALVERT. I thank the gentle lady.

In the interest of time, we have a number of questions I would love to ask, but we must end this hearing and we are going to go to the markup. So, we thank this panel. We appreciate your being here.

[Whereupon, at 12:30 p.m., the Subcommittee proceeded to other business.]